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DURING THE

MIDDLE AGES.

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VIEW

OF THE

STATE OF EUROPE

DURING

THE MIDDLE AGES.

IN THREE VOLUMES.

BY HENRY HALLAM.

Ἐκ Χάεος δ' Ἐρεβός τε μέλαινά τε Νὺξ ἐγένοντο·
Νυκτὸς δ' αὖτ' Αἰθήρ τε καὶ Ἡμέρη ἐξεγένοντο.

ΗΣΙΟΔΟΣ.

FOURTH EDITION.

REVISED AND CORRECTED.

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PREFACE.

It is the object of the present work to exhibit, in a series of historical dissertations, a comprehensive survey of the chief circumstances that can interest a philosophical inquirer during the period usually denominated the Middle Ages. Such an undertaking must necessarily fall under the class of historical abridgements: yet there will perhaps be found enough to distinguish it from such as have already appeared. Many considerable portions of time, especially before the twelfth century, may justly be deemed so barren of events worthy of remembrance, that a single sentence or paragraph is often sufficient to give the character of entire generations, and of long dynasties of obscure kings.

Non ragioniam di lor, ma guarda e passa.

And even in the more pleasing and instruc-

tive parts of this middle period, it has been my object to avoid the dry composition of annals, and aiming, with what spirit and freedom I could, at a just outline rather than a miniature, to suppress all events that did not appear essentially concatenated with others, or illustrative of important conclusions. But as the modes of government and constitutional laws which prevailed in various countries of Europe, and especially in England, seemed to have been less fully dwelt upon in former works of this description than military or civil transactions, while they were deserving of far more attention, I have taken pains to give a true representation of them, and in every instance to point out the sources from which the reader may derive more complete and original information.

Nothing can be farther from my wishes than that the following pages should be judged according to the critical laws of historical composition. Tried in such a balance they would be eminently defective. The limited extent of this work, compared with the subjects it embraces, as well as its partaking

more of the character of political dissertation than of narrative, must necessarily preclude that circumstantial delineation of events and of characters, upon which the beauty as well as usefulness of a regular history so mainly depends. Nor can I venture to assert that it will be found altogether perspicuous to those who are destitute of any previous acquaintance with the period to which it relates; though I have only pre-supposed, strictly speaking, a knowledge of the common facts of English history, and have endeavoured to avoid, in treating of other countries, those allusive references, which imply more information in the reader than the author designs to communicate. But the arrangement which I have adopted has sometimes rendered it necessary to anticipate both names and facts, which are to find a more definite place in a subsequent part of the work.

This arrangement is probably different from that of any former historical retrospect. Every chapter of the following volumes completes its particular subject, and may be considered in some degree as independent of the

rest. The order, consequently, in which they are read will not be very material, though of course I should rather prefer that in which they are at present disposed. A solicitude to avoid continual transitions, and to give free scope to the natural association of connected facts, has dictated this arrangement, to which I confess myself partial. And I have found its inconveniences so trifling in composition, that I cannot believe they will occasion much trouble to the reader.

The first chapter comprizes the history of France from the invasion of Clovis to the expedition, *exclusively*, of Charles VIII. against Naples. It is not possible to fix accurate limits to the Middle Ages; but though the ten centuries from the fifth to the fifteenth seem, in a general point of view, to constitute that period, a less arbitrary division was necessary to render the commencement and conclusion of an historical narrative satisfactory. The continuous chain of transactions on the stage of human society is ill divided by mere lines of chronological demarcation. But as the subversion of the western empire

is manifestly the natural termination of ancient history, so the establishment of the Franks in Gaul appears the most convenient epoch for the commencement of a new period. Less difficulty occurred in finding the other limit. The invasion of Naples by Charles VIII. was the event that first engaged the principal states of Europe in relations of alliance or hostility which may be deduced to the present day, and is the point at which every man who traces backwards its political history will be obliged to pause. It furnishes a determinate epoch in the annals of Italy and France, and nearly coincides with events which naturally terminate the history of the middle ages in other countries.

The feudal system is treated in the second chapter, which I have subjoined to the history of France, with which it has a near connexion. Inquiries into the antiquities of that jurisprudence occupied more attention in the last age than at present, and their dryness may prove repulsive to many readers. But there is no royal road to the knowledge of law; nor can any man render an obscure

and intricate disquisition either perspicuous or entertaining. That the feudal system is an important branch of historical knowledge will not be disputed, when we consider not only its influence upon our own constitution, but that one of the parties which at present divide a neighbouring kingdom professes to appeal to the original principles of its monarchy, as they subsisted before the subversion of that polity.

The four succeeding chapters contain a sketch, more or less rapid and general, of the histories of Italy, of Spain, of Germany, and of the Greek and Saracenic empires. In the seventh I have endeavoured to develop the progress of ecclesiastical power, a subject eminently distinguishing the Middle Ages, and of which a concise and impartial delineation has long been desirable.

The English constitution furnishes materials for the eighth chapter. I cannot hope to have done sufficient justice to this theme, which has cost me considerable labour; but it is worthy of remark, that since the trea-

tise of Nathaniel Bacon, itself open to much exception, there has been no historical development of our constitution, founded upon extensive researches, or calculated to give a just notion of its character. For those parts of Henry's history which profess to trace the progress of government are still more jejune than the rest of his volumes; and the work of Professor Millar of Glasgow, however pleasing from its liberal spirit, displays a fault too common among the philosophers of his country, that of theorizing upon an imperfect induction, and very often upon a total misapprehension of particular facts.

The ninth and last chapter relates to the general state of society in Europe during the middle ages, and comprehends the history of commerce, of manners, and of literature. None however of these are treated in detail, and the whole chapter is chiefly designed as supplemental to the rest, in order to vary the relations under which events may be viewed, and to give a more adequate sense of the spirit and character of the middle ages.

In the execution of a plan far more comprehensive than what with a due consideration either of my abilities or opportunities I ought to have undertaken, it would be strangely presumptuous to hope that I can have rendered myself invulnerable to criticism. Even if flagrant errors should not be frequently detected, yet I am aware that a desire of conciseness has prevented the sense of some passages from appearing sufficiently distinct; and though I cannot hold myself generally responsible for omissions, in a work which could only be brought within a reasonable compass by the severe retrenchment of superfluous matter, it is highly probable that defective information, forgetfulness, or too great a regard for brevity have caused me to pass over many things which would have materially illustrated the various subjects of these inquiries.

I dare not, therefore, appeal with confidence to the tribunal of those superior judges, who, having bestowed a more undivided attention on the particular objects that have interested them, may justly deem such gene-

ral sketches imperfect and superficial; but my labours will not have proved fruitless, if they shall conduce to stimulate the reflection, to guide the researches, to correct the prejudices, or to animate the liberal and virtuous sentiments of inquisitive youth:

Mî satis ampla
Merces, et mihi grande decus, sim ignotus in ævum
Tum licet, externo penitusque inglorius orbi.

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CHAP. I. PART I. FRANCE. Subversion of the Roman Empire.

BEFORE the conclusion of the fifth century, the mighty fabric of empire, which valour and policy had founded upon the seven hills of Rome, was finally overthrown, in all the west of Europe, by the barbarous nations from the north, whose mar-

CHAP. I. PART I. FRANCE.

tial energy and whose numbers were irresistible. A race of men, formerly unknown or despised, had not only dismembered that proud sovereignty, but permanently settled themselves in its fairest provinces, and imposed their yoke upon the ancient possessors. The Vandals were masters of Africa; the Suevi held part of Spain; the Visigoths possessed the remainder, with a large portion of Gaul; the Burgundians occupied the provinces watered by the Rhone and Saone; the Ostrogoths almost all Italy. The north-west of Gaul, between the Seine and the Loire, some writers have filled with an Armorican republic;* while the remainder was still nominally subject to the Roman empire, and governed by a certain Syagrius, rather with an independent than a deputed authority.

New settlements of the barbarous nations.

Invasion of Clovis. A.D.486

At this time, Clovis, king of the Salian Franks, a tribe of Germans long connected with Rome, and originally settled upon the right bank of the Rhine, but who had latterly penetrated as far as Tournay and Cambray,† invaded Gaul and de-

* It is impossible not to speak sceptically as to this republic, or rather confederation of independent cities under the rule of their respective bishops, which Du Bos has with great ingenuity raised upon very slight historical evidence, and in defiance of the silence of Gregory, whose see of Tours bordered upon their supposed territory. But his hypothesis is not to be absolutely rejected, because it is by no means deficient in internal probability, and the early part of Gregory's history is brief and negligent. Du Bos, Hist. Critique de l'Etablissement des Français dans les Gaules, t. i. p. 253. Gibbon, c. 38. after following Du Bos in his text, whispers, as usual, his suspicions in a note.

† The system of Père Daniel, who denies any permanent settlement of the Franks on the left bank of the Rhine before Clovis, seems incapable of being supported. It is difficult to resist the presumption that arises from the discovery of the tomb and skeleton of Childeric, father of Clovis, at Tournay, in 1653. See Montfaucon, Monumens de la Monarchie Française, tome i. p. 10.

feated Syagrius at Soissons. The result of this victory was the subjugation of those provinces which had previously been considered as Roman. But as their allegiance had not been very strict, so their loss was not very severely felt; since the emperors of Constantinople were not too proud to confer upon Clovis the titles of consul and patrician, which he was too prudent to refuse.*

Some years after this, Clovis defeated the Alemanni, or Swabians, in a great battle at Zulpich, near Cologne. In consequence of a vow, as it is said, made during this engagement,† and at the instigation of his wife Clotilda, a princess of Burgundy, he became a convert to Christianity. It would be a fruitless inquiry, whether he was sincere in his change; but it is certain, at least, that 496 no policy could have been more successful. The Arian sect, which had been early introduced among

* The theory of Du Bos, who considers Clovis as a sort of lieutenant of the emperors, and as governing the Roman part of his subjects by no other title, has justly seemed extravagant to later critical inquirers into the history of France. But it may nevertheless be true, that the connexion between him and the empire, and the emblems of Roman magistracy which he bore, reconciled the conquered to their new masters. This is judiciously stated by the Duke de Nivernois. Mém. de l'Acad. des Inscript. tome xx. p. 174. In the sixth century, however, the Greeks appear to have been nearly ignorant of Clovis's countrymen. Nothing can be made out of a passage in Procopius, where he seems to mention the Armoricans under the name Ἀρβόριχοι; and Agathias gives a strangely romantic account of the Franks, whom he extols for their conformity to Roman laws, πολιτείᾳ ὡς τὰ πολλὰ χρῶνται Ῥωμαϊκῇ, καὶ νόμοις τοῖς αὐτοῖς. κ. τ. λ. He goes on to commend their mutual union, and observes particularly, that in partitions of the kingdom, which had frequently been made, they had never taken up arms against each other, nor polluted the land with civil bloodshed. One would almost believe him ironical.

† Gregory of Tours makes a very rhetorical story of this famous vow, which, though we cannot disprove, it may be permitted to suspect.—L. ii. c. 30.

CHAP. I. PART I. FRANCE.

the barbarous nations, was predominant, though apparently without intolerance,* in the Burgundian and Visigoth courts; but the clergy of Gaul were strenuously attached to the Catholic side, and even before his conversion had favoured the arms of Clovis. They now became his most zealous supporters; and were rewarded by him with artful gratitude, and by his descendants with lavish munificence. Upon the pretence of religion,

507 he attacked Alaric, king of the Visigoths, and by one great victory near Poitiers overthrowing their empire in Gaul, reduced them to the maritime province of Septimania, a narrow strip of coast between the Rhone and the Pyrenees. The exploits of Clovis were the reduction of certain independent chiefs of his own tribe and family, who were settled in the neighbourhood of the Rhine.† All these he put to death by force or

* Hist. de Languedoc, par Vich et Vaissette, tome i. p. 238. Gibbon, c. 37. A specious objection might be drawn from the history of the Gothic monarchies in Italy, as well as Gaul and Spain, to the great principles of religious toleration. These Arian sovereigns treated their Catholic subjects, it may be said, with tenderness, leaving them in possession of every civil privilege, and were rewarded for it by their defection or sedition. But in answer to this, it may be observed: 1. That the system of persecution adopted by the Vandals in Africa, succeeded no better; the Catholics of that province having risen against them upon the landing of Belisarius: 2. That we do not know what insults and discouragements the Catholics of Gaul and Italy may have endured, especially from the Arian bishops, in that age of bigotry; although the administration of Alaric and Theodoric were liberal and tolerant: 3. That the distinction of Arian and Catholic was intimately connected with that of Goth and Roman, of conqueror and conquered; so that it is difficult to separate the effects of national, from those of sectarian, animosity.

† Modern historians, in enumerating these *reguli*, call one of them king of Mans. But it is difficult to understand how a chieftain, independent of Clovis, could have been settled in that part of France. In fact, Gregory of Tours, our only authority, does not say that this

treachery; for he was cast in the true mould of conquerors, and may justly be ranked among the first of his class, both for the splendour and the guiltiness of his ambition.*

His descendants. 511

Clovis left four sons; one illegitimate, born before his conversion; and three by his queen Clotilda. These four made, it is said, an equal partition of his dominions; which comprehended not only France, but the western and central parts of Germany, besides Bavaria, and perhaps Swabia, which were governed by their own dependent, but hereditary, chiefs. Thierry, the eldest, had what was called Austrasia, the eastern or German division, and fixed his capital at Metz; Clodomir, at Orleans; Childebert, at Paris; and Clotaire, at Soissons.† During their reigns the monarchy was aggrandized by the conquest of Burgundy. Clotaire, the youngest brother, ultimately re-united all the kingdoms: but upon his death they were 558

prince, Regnomeris, was king of Mans, but that he was put to death in that city: apud Cenomannis civitatem jussu Chlodovechi interfectus est.

* The reader will be gratified by an admirable memoir, by the Duke de Nivernois, on the policy of Clovis, in the twentieth volume of the Academy of Inscriptions.

† Quatuor filii regnum accipiunt, et inter se æquâ lance dividunt.—Greg. Tur. l. iii. c. 1. It would rather perplex a geographer to make an equal division of Clovis's empire into portions, of which Paris, Orleans, Metz, and Soissons, should be the respective capitals. I apprehend, in fact, that Gregory's expression is not very precise. The kingdom of Soissons seems to have been the least of the four, and that of Austrasia the greatest. But the partitions made by these princes were exceedingly complex; insulated fragments of territory, and even undivided shares of cities, being allotted to the worse provided brothers, by way of compensation, out of the larger kingdoms. It would be very difficult to ascertain the limits of these minor monarchies. But the French empire was always considered as one, whatever might be the number of its inheritors; and from accidental circumstances it was so frequently re-united, as fully to keep up this notion.

CHAP. I. PART I. FRANCE.

again divided among his four sons, and brought together a second time by another Clotaire, the grandson of the first. It is a weary and unprofitable task to follow these changes in detail, through scenes of tumult and bloodshed, in which the eye meets with no sunshine, nor can rest upon any interesting spot. It would be difficult, as Gibbon has justly observed, to find any where more vice or less virtue. The names of two queens are distinguished even in that age for the magnitude of their crimes: Fredegonde, the wife of Chilperic, of whose atrocities none have doubted; and Brunehaut, queen of Austrasia, who has met with advocates in modern times, less, perhaps, from any fair presumptions of her innocence, than from compassion for the cruel death which she underwent.*

613

628—638

Their degeneracy.

But after Dagobert, son of Clotaire II., the kings of France dwindled into personal insignificance, and are generally treated by later historians as *insensati*, or idiots.† The whole power

* Every history will give a sufficient epitome of the Merovingian dynasty. The facts of these times are of little other importance, than as they impress on the mind a thorough notion of the extreme wickedness of almost every person concerned in them, and consequently of the state to which society was reduced. But there is no advantage in crowding the memory with barbarian wars and assassinations. For the question about Brunehaut's character, who has had partizans almost as enthusiastic as those of Mary of Scotland, the reader may consult Pasquier, Recherches de la France, l. viii. or Velly, Hist. de France, tome i. on one side, and a dissertation by Gaillard, in the Memoirs of the Academy of Inscriptions, tome xxx. on the other. The last is unfavourable to Brunehaut, and perfectly satisfactory to my judgment.

† An ingenious attempt is made by the Abbé Vertot, Mém. de l'Académie, tome vi. to rescue these monarchs from this long-established imputation. But the leading fact is irresistible, that all

of the kingdom devolved upon the mayors of the palace, originally officers of the household, through whom petitions or representations were laid before the king. The weakness of sovereigns rendered this office important, and still greater weakness suffered it to become elective; men of energetic talents and ambition united it with military command; and the history of France, for half a century, presents no names more conspicuous than those of Ebroin and Grimoald, mayors of Neustria and Austrasia, the western and eastern divisions of the French monarchy.* These, however, met with violent ends; but a more successful usurper of the royal authority was Pepin Heristal, first mayor, and afterwards duke, of Austrasia; who united with almost an avowed sovereignty over that division, a paramount command over the French, or Neustrian provinces, where nominal kings of the Merovingian family were still permitted to exist. This authority he transmitted to a more renowned hero, his son Charles Martel, who, after some less important exploits, was called upon to encounter a new and terrible enemy. The Saracens, after subjugating

Mayors of the palace.

the royal authority was lost during their reigns. However, the best apology seems to be, that after the victories of Pepin Heristal, the Merovingian kings were, in effect, conquered, and their inefficiency was a matter of necessary submission to a master.

* The original kingdoms of Soissons, Paris, and Orleans, were consolidated into that denominated Neustria, to which Burgundy was generally appendant, though distinctly governed by a mayor of its own election. But Aquitaine, the exact bounds of which I do not know, was, from the time of Dagobert I., separated from the rest of the monarchy, under a ducal dynasty, sprung from Aribert, brother of that monarch.

CHAP. I. PART I. FRANCE.

Spain, had penetrated into the very heart of France. Charles Martel gained a complete victory over them between Tours and Poitiers,* in
732 which 300,000 Mohammedans are hyperbolically asserted to have fallen. The reward of this victory was the province of Septimania, which the Saracens had conquered from the Visigoths.†

Change in the royal family. Accession of Pepin.

Such powerful subjects were not likely to remain long contented without the crown; but the circumstances under which it was transferred from the race of Clovis are connected with one of the most important revolutions in the history of Eu-
752 rope. The mayor Pepin, inheriting his father Charles Martel's talents and ambition, made, in the name and with the consent of the nation, a solemn reference to the pope Zacharias, as to the deposition of Childeric III. under whose nominal

* Tours is above seventy miles distant from Poitiers; but I do not find that any French antiquary has been able to ascertain the place of this great battle with more precision; which is remarkable, since, after so immense a slaughter, we should expect the testimony of 'grandia effossis ossa sepulcris.'

The victory of Charles Martel has immortalized his name, and may justly be reckoned among those few battles of which a contrary event would have essentially varied the drama of the world in all its subsequent scenes; with Marathon, Arbela, the Metaurus, Chalons, and Leipsic. Yet do we not judge a little too much by the event, and follow, as usual, in the wake of fortune? Has not more frequent experience condemned those who set the fate of empires upon a single cast, and risk a general battle with invaders, whose greater peril is in delay? Was not this the fatal error by which Roderic had lost his kingdom? Was it possible that the Saracens could have retained any permanent possession of France, except by means of a victory? And did not the contest upon the broad champaign of Poitou afford them a considerable prospect of success, which a more cautious policy would have withheld?

† This conquest was completed by Pepin in 759. The inhabitants preserved their liberties by treaty, and Vaissette deduces from this solemn assurance the privileges of Languedoc.—Hist. de Lang. tome i. p. 412.

authority he himself was reigning. The decision was favourable; that he who possessed the power, should also bear the title of king. The unfortunate Merovingian was dismissed into a convent, and the Franks, with one consent, raised Pepin to the throne, the founder of a more illustrious dynasty. In order to judge of the importance of this revolution to the see of Rome, as well as to France, we must turn our eyes upon the affairs of Italy.

The Lombards.

The dominion of the Ostrogoths was annihilated by the arms of Belisarius and Narses in the sixth century, and that nation appears no more in history. But not long afterwards the Lombards, a people for some time settled in Pannonia, not only subdued that northern part of Italy which has retained *their* name, but, extending themselves southward, formed the powerful duchies of Spoleto and Benevento. The residence of their kings was in Pavia; but the hereditary vassals, who held those two duchies, might be deemed almost independent sovereigns.* The rest of Italy was governed by exarchs, deputed by the Greek emperors, and fixed at Ravenna. In Rome itself, neither *the* people, nor the bishops, who had already conceived in part their schemes of ambition, were much inclined to endure the superiority of Constantinople; yet their disaffection was counter-

* The history, character, and policy of the Lombards, are well treated by Gibbon, c. 45. See, too, the fourth and fifth books of Giannone, and some papers by Gaillard in the Memoirs of the Academy of Inscriptions, tomes xxxii. xxxv. xlv.

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balanced by the inveterate hatred, as well as jealousy, with which they regarded the Lombards. But an impolitic and intemperate persecution, carried on by two or three Greek emperors against a favourite superstition, the worship of images, excited commotions throughout Italy, of which the Lombards took advantage, and easily wrested the exarchate of Ravenna from the eastern empire. It was far from the design of the popes to see their nearest enemies so much aggrandized; and any effectual assistance from the emperor Constantine Copronymus would have kept Rome still faithful. But having no hope from his arms, and provoked by his obstinate intolerance, the pontiffs had recourse to France;* and the service they had rendered to Pepin led to reciprocal obligations of the greatest magnitude. At the request of Stephen II. the new king of France descended from the Alps, drove the Lombards from their recent conquests, and conferred them upon the pope. This memorable donation nearly comprised the modern provinces of Romagna and the March of Ancona.†

They reduce the exarchate of Ravenna, 752

which Pepin re-conquers, and bestows on the pope.

Charlemagne. 768

The state of Italy, which had undergone no change for nearly two centuries, was now rapidly verging to a great revolution. Under the shadow of a mighty name, the Greek empire had concealed the extent of its decline. That charm was now broken: and the Lombard kingdom, which had

* There had been some previous overtures to Charles Martel, as well as to Pepin himself; the habitual sagacity of the court of Rome perceiving the growth of a new western monarchy, which would be, in faith and arms, their surest ally. Muratori, Ann. d'Ital. A.D. 741.

† Giannone, l. v. c. 2.

hitherto appeared the only competitor in the lists, proved to have lost its own energy in awaiting the occasion for its display. France was far more than a match for the power of Italy, even if she had not been guided by the towering ambition and restless activity of the son of Pepin. It was almost the first exploit of Charlemagne, after the death of his brother Carloman had reunited the Frankish empire under his dominion,* to subjugate the kingdom of Lombardy. Neither Pavia nor Verona, its most considerable cities, interposed any material delay to his arms; and the chief resistance he encountered was from the dukes of Friuli and Benevento, the latter of whom could never be brought into thorough subjection to the conqueror. Italy, however, be the cause what it might, seems to have tempted Charlemagne far less than the dark forests of Germany. For neither the southern provinces, nor Sicily, could have withstood his power, if it had been steadily directed against them. Even Spain hardly drew so much of his attention, as the splendour of the prize might naturally have excited. He gained however a very important accession to his empire by conquering from the Saracens the territory contained between the Pyrenees and the Ebro. This was formed into the Spanish

772

He conquers Lombardy;

774

part of Spain;

* Carloman, younger brother of Charles, took the Austrasian, or German provinces of the empire. The custom of partition was so fully established, that those wise and ambitious princes, Charles Martel, Pepin, and Charlemagne himself, did not venture to thwart the public opinion by introducing primogeniture. Carloman would not long have stood against his brother; who, after his death, usurped the inheritance of his two infant children.

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March, governed by the count of Barcelona, part of which at least must be considered as appertaining to France till the twelfth century.*

and Saxony.

But the most tedious and difficult atchievement of Charlemagne was the reduction of the Saxons. The wars with this nation, who occupied nearly the modern circles of Westphalia and Lower Saxony, lasted for thirty years. Whenever the conqueror withdrew his armies, or even his person, the Saxons broke into fresh rebellion; which his unparallelled rapidity of movement seldom failed to crush without delay. From such perseverance on either side, destruction of the weaker could alone result. A large colony of Saxons were finally transplanted into Flanders and Brabant, countries hitherto ill-peopled, in which their descendants preserved the same unconquerable spirit of resistance to oppression. Many fled to the kingdoms of Scandinavia, and mingling with the North-men, who were just preparing to run their memorable career, revenged upon the children and subjects of Charlemagne the devastation of Saxony. The remnant embraced Christianity, their aversion to which had been the chief cause of their rebellions, and acknowledged the sovereignty of Charle-

* The counts of Barcelona always acknowledged the feudal superiority of the kings of France, till some time after their own title had been merged in that of kings of Aragon. In 1180, legal instruments executed in Catalonia ceased to be dated by the year of the king of France; and as there certainly remained no other mark of dependence, the separation of the principality may be referred to that year. But the rights of the French crown over it were finally ceded by Louis IX. in 1258. De Marca, Marca Hispanica, p. 514. Art de vérifier les Dates, t. ii. p. 291.

magne; a submission, which even Witikind, the second Arminius of Germany, after such irresistible conviction of her destiny, did not disdain to make. But they retained, in the main, their own laws, they were governed by a duke of their own nation, if not of their own election, and for many ages they were distinguished by their original character among the nations of Germany.

The successes of Charlemagne on the eastern frontier of his empire against the Sclavonians of Bohemia, and Huns or Avars of Pannonia, though obtained with less cost, were hardly less eminent. In all his wars, the newly conquered nations, or those whom fear had made dependent allies, were employed to subjugate their neighbours; and the incessant waste of fatigue and the sword was supplied by a fresh population that swelled the expanding circle of dominion. I do not know that the limits of the new western empire are very exactly defined by contemporary writers, nor would it be easy to appreciate the degree of subjection in which the Sclavonian tribes were held. As an organized mass of provinces, regularly governed by imperial officers, it seems to have been nearly bounded, in Germany, by the Elbe, the Saale, the Bohemian mountains, and a line drawn from thence crossing the Danube above Vienna, and prolonged to the gulph of Istria. Part of Dalmatia was comprised in the duchy of Friuli. In Italy the empire extended not much beyond the modern frontier of Naples, if we exclude, as was the fact, the duchy of Benevento from any thing more than a

Extent of his dominions.

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titular subjection. The Spanish boundary, as has been said already, was the Ebro.*

His coronation as Emperor. 800

A seal was put to the glory of Charlemagne, when Leo III., in the name of the Roman people, placed upon his head the imperial crown. His father, Pepin, had borne the title of patrician, and he had himself exercised, with that title, a regular sovereignty over Rome.† Money was coined in his name, and an oath of fidelity was taken by the clergy and people. But the appellation of Emperor seemed to place his authority over all his subjects on a new footing. It was full of high and indefinite pretension, tending to overshadow the free election of the Franks by a fictitious de-

* I follow in this the map of Koch, in his Tableau des Révolutions de l'Europe, tom. i. That of Vaugondy, Paris, 1752, includes the dependent Sclavonic tribes, and carries the limit of the empire to the Oder and frontiers of Poland. The authors of L'Art de vérifier les Dates extend it to the Raab. It would require a long examination to give a precise statement.

† The Patricians of the lower empire were governors sent from Constantinople to the provinces. Rome had long been accustomed to their name and power. The subjection of the Romans, both clergy and laity, to Charlemagne, as well before as after he bore the imperial name, seems to be established. See Dissertation Historique, par le Blanc, subjoined to his Traité des Monnoyes de France, p. 18. and St. Marc, Abrégé Chronologique de l'Histoire de l'Italie, t. i. The first of these writers does not allow that Pepin exercised any authority at Rome. A good deal of obscurity rests over its internal government for near fifty years; but there is some reason to believe that the nominal sovereignty of the Greek emperors was not entirely abrogated. Muratori, Annali d' Italia, ad ann. 772. St. Marc, t. i. p. 356. 372. A mosaic, still extant in the Lateran palace, represents our Saviour giving the keys to St. Peter with one hand, and with the other, a standard to a crowned prince, bearing the inscription, Constantine V. But Constantine V. did not begin to reign till 780; and if this piece of workmanship was made under Leo III., as the authors of L'Art de vérifier les Dates imagine, it could not be earlier than 795. T. i. p. 262. Muratori, ad ann. 798. However this may be, there can be no question, that a considerable share of jurisdiction and authority was practically exercised by the popes during this period. Vid. Murat. ad ann. 789.

scent from Augustus. A fresh oath of fidelity to him as emperor was demanded from his subjects. His own discretion, however, prevented him from affecting those more despotic prerogatives, which the imperial name might still be supposed to convey.

His character.

In analyzing the characters of heroes, it is hardly possible to separate altogether the share of fortune from their own. The epoch made by Charlemagne in the history of the world, the illustrious families which prided themselves in him as their progenitor, the very legends of romance, which are full of his fabulous exploits, have cast a lustre around his head, and testify the greatness that has embodied itself in his name. None indeed of Charlemagne's wars can be compared with the Saracenic victory of Charles Martel; but *that* was a contest for freedom, *his* for conquest; and fame is more partial to successful aggression than to patriotic resistance. As a scholar, his acquisitions were probably little superior to those of his unrespected son; and in several points of view the glory of Charlemagne might be extenuated by an analytical dissection.* But rejecting a mode of *judging*, equally uncandid and fallacious, we shall find that he possessed in every thing that grandeur of conception, which distinguishes extraordinary minds. Like Alexander, he seemed

* Eginhard attests his ready eloquence, his perfect mastery of Latin, his knowledge of Greek, so far as to read it, his acquisitions in logic, grammar, rhetoric, and astronomy. But the anonymous author of the life of Louis the Debonair attributes most of these accomplishments to that unfortunate prince.

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born for universal innovation: in a life restlessly active, we see him reforming the coinage, and establishing the legal divisions of money; gathering about him the learned of every country; founding schools and collecting libraries; interfering, but with the tone of a king, in religious controversies; aiming, though prematurely, at the formation of a naval force; attempting, for the sake of commerce, the magnificent enterprize of uniting the Rhine and Danube;* and meditating to mould the discordant codes of Roman and barbarian laws into an uniform system.

The great qualities of Charlemagne were indeed alloyed by the vices of a barbarian and a conqueror. Nine wives, whom he divorced with very little ceremony, attest the license of his private life, which his temperance and frugality can hardly be said to redeem.† Unsparing of blood, though not constitutionally cruel, and wholly indifferent to the means which his ambition prescribed, he beheaded in one day four thousand Saxons; an act of atrocious butchery, after which his persecuting edicts, pronouncing the pain of death against those who refused baptism, or even who ate flesh

* See an essay upon this project in the Memoirs of the Academy of Inscriptions, tome xviii. The rivers which were designed to form the links of this junction, were the Altmuhl, the Regnitz, and the Main; but their want of depth, and the spunginess of the soil, appear to present insuperable impediments to its completion.

† I apprehend that there is no foundation for the charge of an incestuous passion for his daughters, which Voltaire calls *une foiblesse*. The error seems to have originated in a mis-interpreted passage of Eginhard. These ladies, indeed, were far from being models of virtue, and their lives brought scandal upon the royal palace.

during Lent, seem scarcely worthy of notice. This union of barbarous ferocity with elevated views of national improvement, might suggest the parallel of Peter the Great. But the degrading habits and brute violence of the Moscovite place him at an immense distance from the restorer of the empire.

A strong sympathy for intellectual excellence was the leading characteristic of Charlemagne, and this undoubtedly biassed him in the chief political error of his conduct, that of encouraging the power and pretensions of the hierarchy. But, perhaps, his greatest eulogy is written in the disgraces of succeeding times, and the miseries of Europe. He stands alone like a beacon upon a waste, or a rock in the broad ocean. His sceptre was as the bow of Ulysses, which could not be drawn by any weaker hand. In the dark ages of European history, the reign of Charlemagne affords a solitary resting-place between two long periods of turbulence and ignominy, deriving the advantages of contrast both from that of the preceding dynasty, and of a posterity for whom he had formed an empire which they were unworthy and unequal to maintain.*

Pepin, the eldest son of Charlemagne, died before him, leaving a natural son, named Bernard.† Louis the Debonair. 814

* The life of Charlemagne, by Gaillard, without being made perhaps so interesting as it ought to have been, presents an adequate view both of his actions and character. Schmidt, Hist. des Allemands, tome ii. appears to me a superior writer.

† A contemporary author, Thegan, ap. Muratori, A.D. 810, asserts that Bernard was born of a concubine. I do not know why modern historians represent it otherwise.

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Even if he had been legitimate, the right of representation was not at all established during these ages; indeed the general prejudice seems to have inclined against it. Bernard, therefore, kept only the kingdom of Italy, which had been transferred to his father; while Louis, the younger son of Charlemagne, inherited the Empire. But, in a
817 short time, Bernard, having attempted a rebellion against his uncle, was sentenced to lose his eyes, which occasioned his death; a cruelty more agreeable to the prevailing tone of manners, than to the character of Louis, who bitterly reproached himself for the severity he had been persuaded to use.

Under this prince, called by the Italians the Pious, and by the French, the Debonair or Good-natured,* the mighty structure of his father's power began rapidly to decay. I do not know that Louis deserves so much contempt as he has undergone; but historians have in general more indulgence for splendid crimes, than for the weaknesses of virtue. There was no defect in Louis's understanding or courage; he was accomplished in martial exercises, and in all the learning which an education, excellent for that age, could supply. No one was ever more anxious to reform the abuses of administration; and whoever compares

* These names, as a French writer observes, meant the same thing. *Pius* had, even in good Latin, the sense of *mitis*, meek, forbearing, or what the French call *debonair*. Synonymes de Rouband, tom. i. p. 257. Our English word debonair is hardly used in the same sense, if indeed it can be called an English word; but I have not altered Louis's appellation, by which he is so well known.

his capitularies with those of Charlemagne will perceive, that, as a legislator, he was even superior to his father. The fault lay entirely in his heart; and this fault was nothing but a temper too soft, and a conscience too strict.* It is not wonderful that the empire should have been speedily dissolved; a succession of such men as Charles Martel, Pepin and Charlemagne, could alone have preserved its integrity; but the misfortunes of Louis and his people were immediately owing to the following errors of his conduct.

His misfortunes and errors.

Soon after his accession, Louis thought fit to associate his eldest son Lothaire to the empire, and to confer the provinces of Bavaria and Aquitaine, as subordinate kingdoms, upon the two younger, Louis and Pepin. The step was, in appearance, conformable to his father's policy, who had acted towards himself in a similar manner. But such measures are not subject to general rules, and exact a careful regard to characters and circumstances. The principle, however, which regulated this division, was learned from Charlemagne,† and could alone, if strictly pursued, have given unity and permanence to the empire.

817

* Schmidt, Hist. des Allemands, tom. ii. has done more justice than other historians to Louis's character. Vaissette attests the goodness of his government in Aquitaine, which he held as a subordinate kingdom during his father's life. It extended from the Loire to the Ebro, so that the trust was not contemptible.—Hist. de Languedoc, tom. i. p. 476.

† Charlemagne had made a prospective arrangement in 806, the conditions of which are nearly the same as those of Louis; but the death of his two elder sons, Charles and Pepin, prevented its taking effect. Baluz. Capitularia, p. 441.

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The elder brother was to preserve his superiority over the others, so that they should neither make peace nor war, nor even give answer to ambassadors without his consent. Upon the death of either, no further partition was to be made; but whichever of his children might become the popular choice, was to inherit the whole kingdom, under the same superiority of the head of the family.* This compact was, from the beginning, disliked by the younger brothers; and an event, upon which Louis does not seem to have calculated, soon disgusted his colleague Lothaire. Judith of Bavaria, the emperor's second wife, an ambitious woman, bore him a son, by name Charles, whom both parents were naturally anxious to place on an equal footing with his brothers. But this could only be done at the expense of Lothaire, who was ill-disposed to see his empire still further dismembered for this child of a second bed. Louis passed his life in a struggle with three undutiful sons, who abused his paternal kindness by constant rebellions.

These were rendered more formidable by the concurrence of a different class of enemies, whom it had been another error of the emperor to provoke. Charlemagne had assumed a thorough controul and supremacy over the clergy; and his son was perhaps still more vigilant in chastising their irregularities, and reforming their rules of discipline. But to this, which they had been

* Baluzii Capitularia, tom. i. p. 575.

compelled to bear at the hands of the first, it was not equally easy for the second to obtain their submission. Louis therefore drew on himself the inveterate enmity of men, who united with the turbulence of martial nobles, a skill in managing those engines of offence which were peculiar to their order, and to which the implicit devotion of his character laid him very open. Yet after many vicissitudes of fortune, and many days of ignominy, his wishes were eventually accomplished. Charles his youngest son, sirnamed the Bald, obtained upon his death most part of France, while Germany fell to the share of Louis, and the rest of the imperial dominions with the title, to the eldest, Lothaire. This partition was the result of a sanguinary, though short, contest; and it gave a fatal blow to the empire of the Franks. For the treaty of Mersen, in 847, abrogated the sovereignty that had been attached to the eldest brother and to the imperial name in former partitions; each held his respective kingdom as an independent right.*

840 Partition of the empire among his sons, Lothaire, Louis and Charles the Bald. 847

The subsequent partitions made among the children of these brothers are of too rapid succession to be here related. In about forty years, the empire was nearly re-united under Charles the Fat, son of Louis of Germany; but his short and inglorious reign ended in his deposition. From

Decline of the Carlovingian family. Charles the Fat, emperor 881. King of France 885. Deposed 887.

* Baluzii Capitularia, tom. ii. p. 42. Velly, tome ii. p. 75. The expressions of this treaty are perhaps equivocal; but the subsequent conduct of the brothers and their family justifies the construction of Velly, which I have followed.

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this time the possession of Italy was contested among her native princes; Germany fell at first to an illegitimate descendant of Charlemagne, and in a short time was entirely lost by his family; two kingdoms, afterwards united, were formed by usurpers, out of what was then called Burgundy, and comprized the provinces between the Rhone and the Alps, with Franche Comté, and great part of Switzerland.* In France, the Carlovingian kings continued for another century; but their line was interrupted two or three times by the election or usurpation of a powerful family, the counts of Paris and Orleans, who ended, like the old mayors of the palace, in dispersing the phantoms of royalty they had professed to serve.† Hugh Capet, the representative of this house, upon the death of Louis V. placed himself upon the throne; thus founding the third and most permanent race of French sovereigns. Before this

Dismemberment of the empire.

Kings of France.
Eudes 887.
Charles the Simple 898.
Robert? 922.
Ralph 923.
Louis IV. 936.
Lothaire 954.
Louis V. 986
Counts of Paris.

* These kingdoms were denominated Provence and Transjurane Burgundy. The latter was very small, comprizing only part of Switzerland; but its second sovereign Rodolph II. acquired by treaty almost the whole of the former; and the two united were called the kingdom of Arles. This lasted from 933 to 1032, when Rodolph III. bequeathed his dominions to the Emperor Conrad II.—Art de vérifier les Dates, tom. ii. p. 427—432.

† The family of Capet is generally admitted to possess the most ancient pedigree of any sovereign line in Europe. Its succession through males is unequivocally deduced from Robert the Brave, made governor of Anjou in 864, and father of Eudes king of France, and of Robert, who was chosen by a party in 922, though, as Charles the Simple was still acknowledged in some provinces, it is uncertain whether he ought to be counted in the royal list. It is, moreover, highly probable that Robert the Brave was descended, equally through males, from St. Arnoul, who died in 640, and consequently nearly allied to the Carlovingian family, who derive their pedigree from the same head. —See Preuves de la Généalogie de Hughes Capet, in l'Art de vérifier les Dates, tom. i. p. 566.

happened, the descendants of Charlemagne had sunk into insignificance, and retained little more of France than the city of Laon. The rest of the kingdom had been seized by the powerful nobles, who, with the nominal fidelity of the feudal system, maintained its practical independence and rebellious spirit.

State of the people.

These were times of great misery to the people, and the worst, perhaps, that Europe has ever known. Even under Charlemagne, we have abundant proofs of the calamities which the people suffered. The light which shone around him, was that of a consuming fire. The free proprietors, who had once considered themselves as only called upon to resist foreign invasion, were harassed with endless expeditions, and dragged away to the Baltic sea or the banks of the Drave. Many of them, as we learn from his Capitularies, became ecclesiastics to avoid military conscription.* But far worse must have been their state under the lax government of succeeding times, when the dukes and counts, no longer checked by the vigorous administration of Charlemagne, were at

* Capitularia, A.D. 805. Whoever possessed three mansi of alodial property, was called upon for personal service, or at least to furnish a substitute. Nigellus, author of a poetical Life of Louis I. seems to implicate Charlemagne himself in some of the oppressions of his reign. It was the first care of the former to redress those who had been injured in his father's time.—Recueil des Historiens, tome vi. N.B. I quote by this title the great collection of French historians, charters, and other documents illustrative of the middle ages more commonly known by the name of its first editor, the Benedictine Bouquet. But as several learned men of that order were successively concerned in this work, not one half of which has yet been published, it seemed better to follow its own title-page.

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liberty to play the tyrants in their several territories, of which they now became almost the sovereigns. The poorer landholders accordingly were forced to bow their necks to the yoke; and either by compulsion, or through hope of being better protected, submitted their independent patrimonies to the feudal tenure.

But evils still more terrible than these political abuses were the lot of those nations who had been subject to Charlemagne. They indeed may appear to us little better than ferocious barbarians: but they were exposed to the assaults of tribes, in comparison of whom they must be deemed humane and polished. Each frontier of the empire had to dread the attack of an enemy. The coasts of

The Saracens.

Italy were continually alarmed by the Saracens of Africa, who possessed themselves of Sicily and Sardinia, and became masters of the Mediterranean sea.* Though the Greek dominions in the south of Italy were chiefly exposed to them, they twice insulted and ravaged the territory of Rome; nor was there any security even in the neighbourhood of the maritime Alps, where, early in the tenth century, they settled a piratical colony.†

846—849.

The Hungarians.

Much more formidable were the foes by whom

* These African Saracens belonged to the Aglabites, a dynasty that reigned at Tunis for the whole of the ninth century, after throwing off the yoke of the Abbassite Khalifs. They were overthrown themselves in the next age by the Fatimites. Sicily was first invaded in 827: but the city of Syracuse was only reduced in 878.

† Muratori, Annali d'Italia, ad ann. 906. et alibi. These Saracens of Frassineto, supposed to be between Nice and Monaco, were extirpated by a count of Provence in 972.

Germany was assailed. The Sclavonians, a widely extended people, whose language is still spoken upon half the surface of Europe, had occupied the countries of Bohemia, Poland, and Pannonia,* on the eastern confines of the empire, and from the time of Charlemagne acknowledged its superiority. But at the end of the ninth century, a Tartarian tribe, the Hungarians, overspreading that country which since has borne their name, and moving forward like a vast wave, brought a dreadful reverse upon Germany. Their numbers were great, their ferocity untamed. They fought with light cavalry and light armour, trusting to their showers of arrows, against which the swords and lances of the European armies could not avail. The memory of Attila was renewed in the devastations of these savages, who, if they were not his compatriots, resembled them both in their countenances and customs. All Italy, all Germany, and the south of France, felt this scourge;† till Henry the Fowler, and Otho the Great, drove them back by successive victories within their own limits, where, 934 954

* I am sensible of the aukward effect of introducing this name from a more ancient geography, but it saves a circumlocution still more awkward. Austria would convey an imperfect idea, and the Austrian dominions could not be named without a tremendous anachronism.

† In 924, they overran Languedoc. Raymond-Pons, count of Toulouse, cut their army to pieces; but they had previously committed such ravages, that the bishops of that province, writing soon afterwards to Pope John X. assert that scarcely any eminent ecclesiastics, out of a great number, were left alive.—Hist. de Languedoc, tome ii. p. 60. They penetrated into Guienne, as late as 951. Flodoardi Chronicon, in Recueil des Historiens, tome viii. In Italy, they inspired such terror, that a mass was composed expressly deprecating this calamity: Ab Ungarorum nos defendas jaculis! In 937, they ravaged the country as far as Benevento and Capua. Muratori, Ann. d'Italia.

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in a short time, they learned peaceful arts, adopted the religion and followed the policy of Christendom.

The Normans.

If any enemies could be more destructive than these Hungarians, they were the pirates of the north, known commonly by the name of Normans. The love of a predatory life seems to have attracted adventurers of different nations to the Scandinavian seas, from whence they infested, not only by maritime piracy, but continual invasions, the northern coasts both of France and Germany. The causes of their sudden appearance are inexplicable, or at least could only be sought in the ancient traditions of Scandinavia. For, undoubtedly, the coasts of France and England were as little protected from depredations under the Merovingian kings, and those of the Heptarchy, as in subsequent times. Yet only one instance of an attack from this side is recorded, and that before the middle of the sixth century,* till the age of Charlemagne. In 787, the Danes, as we call those northern plunderers, began to infest England, which lay most immediately open to their incursions. Soon afterwards they ravaged the coasts of France. Charlemagne repulsed them by means of his fleets; yet they pillaged a few places during his reign. It is said that, perceiving one day, from a port in the Mediterranean, some Norman vessels which had penetrated into that sea, he shed tears, in anticipation of the miseries which

* Greg. Turon. l. iii. c. 3.

awaited his empire.* In Louis's reign, their depredations upon the coasts were more incessant,† but they did not penetrate into the inland country, till that of Charles the Bald. The wars between that prince and his family, which exhausted France of her noblest blood, the insubordination of the provincial governors, even the instigation of some of Charles's enemies, laid all open to their inroads. They adopted an uniform plan of warfare both in France and England; sailing up navigable rivers in their vessels of small burthen, and fortifying the islands which they occasionally found, they made these intrenchments at once an asylum for their women and children, a repository for their plunder, and a place of retreat from superior force. After pillaging a town, they retired to these strong holds or to their *ships*; and it was not till 872 that they ventured to keep possession of Angers, which, however, they were compelled to evacuate. Sixteen years afterwards, they laid siege to Paris, and committed the most ruinous devastations on the neighbouring country. As these Normans were unchecked by religious awe, the rich monasteries,

* In the ninth century, the Norman pirates not only ravaged the Balearic isles, and nearer coasts of the Mediterranean, but even Greece. De Marca, Marca Hispanica, p. 327.

† Nigellus, the poetical biographer of Louis, gives the following description of the Normans:

Nort quoque Francisco dicuntur nomine *manni*.
Veloces, agiles, armigerique nimis:
Ipse quidem populus latè pernotus habetur,
Lintre dapes quærit, incolitatque mare.
Pulcher adest facie, vultuque statuque decorus.—l. iv.

He goes on to tell us, that they worshipped Neptune—Was it a similarity of name, or of attributes, that deceived him?

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which had stood harmless amidst the havoc of Christian war, were overwhelmed in the storm. Perhaps they may have endured some irrecoverable losses of ancient learning; but their complaints are of monuments disfigured, bones of saints and kings dispersed, treasures carried away. St. Denis redeemed its abbot from captivity with six hundred and eighty-five pounds of gold. All the chief abbies were stripped about the same time, either by the enemy, or for contributions to the public necessity. So impoverished was the kingdom, that in 860 Charles the Bald had great difficulty in collecting three thousand pounds of silver, to subsidize a body of Normans against their countrymen. The kings of France, too feeble to prevent or repel these invaders, had recourse to the palliative of buying peace at their hands, or rather precarious armistices, to which reviving thirst of plunder soon put an end. At length Charles the Simple, in 918, ceded a great province, which they had already partly occupied, partly rendered desolate, and which has derived from them the name of Normandy. Ignominious as this appears, it proved no impolitic step. Rollo, the Norman chief, with all his subjects, became Christians and Frenchmen; and the kingdom was at once relieved from a terrible enemy, and strengthened by a race of hardy colonists.*

* An exceedingly good sketch of these Norman incursions, and of the political situation of France during that period, may be found in two Memoirs by M. Bonamy, Mém. de l'Acad. des Inscript. tome xv. and xvii. These I have chiefly followed in the text.

Accession of Hugh Capet 987

State of France at that time.

The accession of Hugh Capet had not the immediate effect of restoring the royal authority over France. His own very extensive fief was now indeed united to the crown; but a few great vassals occupied the remainder of the kingdom. Six of these obtained, at a subsequent time, the exclusive appellation of peers of France; the count of Flanders, whose fief stretched from the Scheldt to the Somme; the count of Champagne; the duke of Normandy, to whom Britany did homage; the duke of Burgundy, on whom the count of Nivernois seems to have depended; the duke of Aquitaine, whose territory, though less than the ancient kingdom of that name, comprehended Poitou, Limousin, and most of Guienne, with the feudal superiority over the Angoumois, and some other central districts, and, lastly, the count of Toulouse, who possessed Languedoc, with the small countries of Quercy and Rouergue, and the superiority over Auvergne.* Besides these six, the duke of Gascony, not long afterwards united with Aquitaine, the counts of Anjou, Ponthieu, and Vermandois, the viscount of Bourges, the lords of Bourbon and Coucy, with one or two other vassals, *held* immediately of the last Carlovingian kings.† This was the aristocracy, of which Hugh

* Auvergne changed its feudal superior twice. It had been subject to the duke of Aquitaine till about the middle of the tenth century. The counts of Toulouse then got possession of it; but early in the twelfth century, the counts of Auvergne again did homage to Guienne. It is very difficult to follow the history of these fiefs.

† The *immediacy* of vassals, in times so ancient, is open to much controversy. I have followed the authority of those industrious Benedictines, the editors of l'Art de vérifier les Dates.

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Capet usurped the direction; for the suffrage of no general assembly gave a sanction to his title. On the death of Louis V. he took advantage of the absence of Charles duke of Lorraine, who, as the deceased king's uncle, was nearest heir, and procured his own consecration at Rheims. At first he was by no means acknowledged in the kingdom; but his contest with Charles proving successful, the chief vassals ultimately gave at least a tacit consent to the usurpation, and permitted the royal name to descend undisputed upon his posterity.* But this was almost the sole attribute of sovereignty which the first kings of the third dynasty enjoyed. For a long period before and after the accession of that family, France has, properly speaking, no national history. The character or fortune of those who were called its kings, were little more important to the majority of the nation than those of foreign princes. Undoubtedly, the degree of influence which they exercised with respect to the vassals of the crown varied accord-

Robert 996.

* The south of France not only took no part in Hugh's elevation, but long refused to pay him any obedience, or rather to acknowledge his title, for obedience was wholly out of the question. The style of charters ran, instead of the king's name, *Deo regnante, rege expectante*, or, *absente rege terreno*. He forced Guienne to submit about 990. But in Limousin they continued to acknowledge the sons of Charles of Lorraine till 1009. Vaissette, Hist. de Lang. t. ii. p. 120. 150. Before this, Toulouse had refused to recognize Eudes and Raoul, two kings of France who were not of the Carlovingian family, and even hesitated about Louis IV. and Lothaire, who had an hereditary right. Idem.

These proofs of Hugh Capet's usurpation seem not to be materially invalidated by a dissertation in the 50th volume of the Academy of Inscriptions, p. 553. It is not, of course, to be denied, that the northern parts of France acquiesced in his assumption of the royal title, if they did not give an express consent to it.

Henry I. 1031. Philip I. 1060.

ing to their power and their proximity. Over Guienne and Toulouse, the four first Capets had very little authority; nor do they seem to have ever received assistance from them either in civil or national wars.* With provinces nearer to their own domains, such as Normandy and Flanders, they were frequently engaged in alliance or hostility; but each seemed rather to proceed from the policy of independent states, than from the relation of a sovereign towards his subjects.

It should be remembered that when the fiefs of Paris and Orleans are said to have been re-united by Hugh Capet to the crown, little more is understood than the feudal superiority over the vassals of these provinces. As the kingdom of Charlemagne's posterity was split into a number of great fiefs, so each of these contained many barons, possessing exclusive immunities within their own territories, waging war at their pleasure, administering justice to their military tenants and other

* I have not found any authority for supposing that the provinces south of the Loire contributed their assistance to the king in war, unless the following passage of Gulielmus Pictaviensis be considered as matter of fact, and not rather as a rhetorical flourish. He tells us, that a vast army was collected by Henry I. against the duke of Normandy: Burgundiam, Arverniam, atque Vasconiam properare videres horribiles ferro; immo vires tanti regni quantum in climata quatuor mundi patent cunctas. Recueil des Historiens, t. xi. p. 83. But we have the roll of the army which Louis VI. led against the Emperor Henry V. A.D. 1120, in a national war; and it was entirely composed of troops from Champagne, the Isle of France, the Orleannois, and other provinces north of the Loire. Velly, t. iii. p. 62. Yet this was a sort of convocation of the ban: Rex ut eum toto Francia sequatur, invitat. Even so late as the reign of Philip Augustus, in a list of the knights bannerets of France, though those of Britany, Flanders, Champagne, and Burgundy, besides the royal domains, are enumerated, no mention is made of the provinces beyond the Loire. Du Chesne, Script. Rerum Gallicarum, t. v. p. 262.

CHAP. I. PART I. FRANCE. Louis VI. 1108

subjects, and free from all controul beyond the conditions of the feudal compact.* At the accession of Louis VI. in 1108, the cities of Paris, Orleans, and Bourges, with the immediately adjacent districts, formed the most considerable portion of the royal domain. A number of petty barons, with their fortified castles, intercepted the communication between these, and waged war against the king almost under the walls of his capital. It cost Louis a great deal of trouble to reduce the lords of Montlehery, and other places within a few miles of Paris. Under this prince, however, who had more activity than his predecessors, the royal authority considerably revived. From his reign we may date the systematic rivalry of the French and English monarchies. Hostilities had several times occurred between Philip I. and the two Williams; but the wars that began under Louis VI. lasted, with no long interruption, for three centuries and a half, and form indeed the most leading feature of French history during the middle ages.† Of all the royal vassals, the dukes of Normandy were the proudest and most powerful. Though they had submitted to do homage, they could not forget that they came in originally by force, and that in real strength they were fully equal to their sovereign. Nor had the conquest

* In a subsequent chapter, I shall illustrate, at much greater length, the circumstances of the French monarchy with respect to its feudal vassals. It would be inconvenient to anticipate the subject at present, which is rather of a legal than narrative character.

† Velly, t. iii. p. 40.

of England any tendency to diminish their pretensions.*

Louis VII. ascended the throne with better prospects than his father. He had married Eleanor, heiress of the great duchy of Guienne. But this union, which promised an immense accession of strength to the crown, was rendered unhappy by the levities of that princess. Repudiated by Louis, who felt rather as a husband than a king, Eleanor immediately married Henry II. of England; who already inheriting Normandy from his mother, and Anjou from his father, became possessed of more than one half of France, and an overmatch for Louis, even if the great vassals of the crown had been always ready to maintain its supremacy. One might venture perhaps to conjecture that the sceptre of France would eventually have passed from the Capets to the Plantagenets, if the vexatious quarrel with Becket at one time, and the successive rebellions fomented by Louis at a later period, had not embarrassed the great talents and ambitious spirit of Henry.

Louis VII. 1137

But the scene quite changed when Philip Augustus, son of Louis VII. came upon the stage. No prince comparable to him in systematic ambition and military enterprize had reigned in France since Charlemagne. From his reign the

Philip Augustus. 1180

* The Norman historians maintain, that their dukes did not owe any service to the king of France, but only simple homage, or, as it was called, per paragium. Recueil des Historiens, t. xi. pref. p. 161. They certainly acted upon this principle; and the manner in which they first came into the country is not very consistent with dependence.

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French monarchy dates the recovery of its lustre. He wrested from the count of Flanders the Vermandois, (that part of Picardy which borders on the Isle of France and Champagne,*) and subsequently, the county of Artois. But the most important conquests of Philip were obtained against the kings of England. Even Richard I., with all his prowess, lost ground in struggling against an adversary, not less active, and more politic than himself. But when John not only took possession of his brother's dominions, but confirmed his usurpation by the murder, as was very probably surmised, of the heir, Philip, artfully taking advantage of the general indignation, summoned him as his vassal to the court of his peers. John demanded a safe-conduct. Willingly, said Philip; let him come unmolested. And return? inquired the English envoy. If the judgment of his peers permit him, replied the king. By all the saints of France, he exclaimed, when further pressed, he shall not return unless acquitted. The bishop of Ely still remonstrated, that the duke of Normandy could not come without the king of England; nor would the barons of that country permit their sovereign to run the risk of death or imprisonment. What of that, my lord bishop? cried Philip. It is well

Conquest of Normandy. 1203

* The original counts of Vermandois were descended from Bernard king of Italy, grandson of Charlemagne: but their fief passed by the donation of Isabel, the last countess, to her husband the earl of Flanders, after her death in 1183. The principal towns of the Vermandois are St. Quentin and Peronne. Art de vérifier les Dates, t. ii. p. 700.

known that my vassal the duke of Normandy acquired England by force. But, if a subject obtains any accession of dignity, shall his paramount lord therefore lose his rights?*

It may be doubted, whether, in thus citing John before his court, the king of France did not stretch his feudal sovereignty beyond its acknowledged limits. Arthur was certainly no immediate vassal of the crown for Britany; and though he had done homage to Philip for Anjou and Maine, yet a subsequent treaty had abrogated his investiture, and confirmed his uncle in the possession of those provinces.† But the vigour of Philip, and the meanness of his adversary, cast a shade over all that might be novel or irregular in these proceedings. John, not appearing at his summons, was declared guilty of felony, and his fiefs confiscated. The execution of this sentence was not entrusted to a dilatory arm. Philip poured his troops into Normandy, and took town after town, while the king of England, infatuated by his own wickedness and cowardice, made hardly an attempt at defence. In two years Normandy, Maine, and Anjou were irrecoverably lost. Poitou and Guienne resisted longer: but the conquest of the first was completed by Louis VIII. successor of Philip, and the subjection of the second seemed drawing near, when the arms of Louis were

Louis VIII. 1223

* Mat. Paris, p. 238. edit. 1684.

† The illegality of Philip's proceedings is well argued by Mably, Observations sur l'Histoire de France, l. iii. c. 6.

CHAP. I. PART I.

FRANCE.

Affairs of Languedoc.

diverted to different, but scarcely less advantageous objects.

The country of Languedoc, subject to the counts of Toulouse, had been unconnected, beyond any other part of France, with the kings of the house of Capet. Louis VII. having married his sister to the reigning count, and travelled himself through the country, began to exercise some degree of authority, chiefly in confirming the rights of ecclesiastical bodies, who were vain perhaps of this additional sanction to the privileges which they already possessed.* But the remoteness of their situation, with a difference in language and legal usages, still kept the people of this province apart from those of the north of France.

About the middle of the twelfth century, certain religious opinions, which it is not easy, nor, for our present purpose, material to define, but, upon every supposition, exceedingly adverse to those of the church,† began to spread over Languedoc.

* According to the Benedictine historians, Vich and Vaissette, there is no trace of any act of sovereignty exercised by the kings of France in Languedoc from 955, when Lothaire confirmed a charter of his predecessor Raoul, in favour of the bishop of Puy, till the reign of Louis VII. (Hist. de Languedoc, toune ii. p. 88.) They have published however an instrument of Louis VI. in favour of the same church, confirming those of former princes. (Appendix, p. 473.) Neither the counts of Toulouse, nor any lord of the province, were present in a very numerous national assembly, at the coronation of Philip I. (Id. p. 200.) I do not recollect to have ever met with the name of the count of Toulouse as a subscribing witness to the charters of the first Capetian kings in the Recueil des Historiens, where many are published; though that of the Duke of Guienne sometimes occurs.

† For the real tenets of the Languedocian sectaries, I refer to the last chapter of the present work, where the subject will be taken up again.

Those who imbibed them have borne the name of Albigeois, though they were in no degree peculiar to the district of Albi. In despite of much preaching and some persecution, these errors made a continual progress; till Innocent III., in 1198, dispatched commissaries, the seed of the inquisition, with ample powers both to investigate and to chastise. Raymond VI., count of Toulouse, whether inclined towards the innovators, as was then the theme of reproach, or, as is more probable, disgusted with the insolent interference of the pope and his missionaries, provoked them to pronounce a sentence of excommunication against him. Though this was taken off, he was still suspected; and upon the assassination of one of the inquisitors, in which Raymond had no concern, Innocent pub- 1208
lished a crusade both against the count and his subjects, calling upon the king of France, and the nobility of that kingdom, to take up the cross, with all the indulgences usually held out as allurements to religious warfare. Though Philip would not interfere, a prodigious number of knights undertook this enterprize, led partly by ecclesiastics, and partly by some of the first barons in France. It was prosecuted with every atrocious barbarity which superstition, the mother of crimes, could inspire. Languedoc, a country, for that age, flourishing and civilized, was laid waste by these desolators; her cities burned; her inhabitants swept away by fire and the sword. And this was to punish a fanaticism ten thousand times more innocent than their own, and errors, which, accor-

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ding to the worst imputations, left the laws of humanity and the peace of social life unimpaired.*

Crusade against the Albigeois.

The crusaders were commanded by Simon de Montfort, a man, like Cromwell, whose intrepidity, hypocrisy and ambition, marked him for the hero of a holy war. The energy of such a mind, at the head of an army of enthusiastic warriors, may well account for successes which then appeared miraculous. But Montfort was cut off before he could realize his ultimate object, an independent principality; and Raymond was able to bequeath the inheritance of his ancestors to his

1222 son. Rome, however, was not yet appeased; upon some new pretence, she raised up a still more formidable enemy against the younger Raymond. Louis VIII. suffered himself to be diverted from the conquest of Guienne, to take the cross against the supposed patron of heresy. After a short and successful war, Louis dying prematurely, left the crown of France to a son only twelve years old. But the count of Toulouse was still pursued, till, hopeless of safety in so unequal a struggle, he concluded a treaty upon very hard terms. By

1229 this he ceded the greater part of Languedoc; and giving his daughter in marriage to Alphonso, brother of Louis IX., confirmed to them, and to

* The Albigensian war commenced with the storming of Bezières, and a massacre, wherein 15,000 persons, or, according to some narrations, 60,000, were put to the sword. Not a living soul escaped, as witnesses assure us. It was here that a Cistertian monk, who led on the crusaders, answered the inquiry, how the Catholics were to be distinguished from heretics: *Kill them all! God will know his own.* Besides Vaissette, see Sismondi, Littérature du Midi, t. i. p. 201.

the king in failure of their descendants, the reversion of the rest, in exclusion of any other children whom he might have. Thus fell the ancient house of Toulouse, through one of those strange combinations of fortune, which thwart the natural course of human prosperity, and disappoint the plans of wise policy, and beneficent government.*

Louis IX. 1226

The rapid progress of royal power under Philip Augustus and his son had scarcely given the great vassals time to reflect upon the change which it produced in their situation. The crown, with which some might singly have measured their forces, was now an equipoise to their united weight. And such an union was hard to be accomplished among men not always very sagacious in policy, and divided by separate interests and animosities. They were not, however, insensible to the crisis of their feudal liberties; and the minority of Louis IX. guided only by his mother, the regent Blanche of Castile, seemed to offer a favourable opportunity for recovering their former situation. Some of the most considerable barons, the counts of Britany, Champagne, and la Marche, had, during the time of Louis VIII., shewn an unwillingness to push the count of Toulouse too far, if they did not even keep up a secret understanding with him. They now broke out into

* The best account of this crusade against the Albigeois is to be found in the third volume of Vaissette's History of Languedoc; the Benedictine spirit of mildness and veracity tolerably counterbalancing the prejudices of orthodoxy. Velly, Hist. de France, t. iii. has abridged this work.

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open rebellion; but the address of Blanche detached some from the league, and her firmness subdued the rest. For the first fifteen years of Louis's reign, the struggle was frequently renewed; till repeated humiliations convinced the refractory, that the throne was no longer to be shaken. A prince so feeble as Henry III. was unable to afford them that aid from England, which, if his grandfather or son had then reigned, might probably have lengthened these civil wars.

His character. Its excellences

But Louis IX. had methods of preserving his ascendancy very different from military prowess. That excellent prince was perhaps the most eminent pattern of unswerving probity, and Christian strictness of conscience, that ever held the sceptre in any country. There is a peculiar beauty in the reign of St. Louis, because it shews the inestimable benefit which a virtuous king may confer on his people, without possessing any distinguished genius. For nearly half a century that he governed France, there is not the smallest want of moderation or disinterestedness in his actions; and yet he raised the influence of the monarchy to a much higher point than the most ambitious of his predecessors. To the surprize of his own and later times, he restored great part of his conquests to
1259 Henry III., whom he might naturally hope to have expelled from France. It would indeed have been a tedious work to conquer Guienne, which was full of strong places, and the subjugation of such a province might have alarmed the other vassals of his crown. But it is the privilege only

of virtuous minds to perceive that wisdom resides in moderate counsels: no sagacity ever taught a selfish and ambitious sovereign to forego the sweetness of immediate power. An ordinary king, in the circumstances of the French monarchy, would have fomented, or, at least, have rejoiced in the dissensions which broke out among the principal vassals; Louis constantly employed himself to reconcile them. In this too his benevolence had all the effects of far-sighted policy. It had been the practice of his three last predecessors to interpose their mediation in behalf of the less powerful classes; the clergy, the inferior nobility, and the inhabitants of chartered towns. Thus the supremacy of the crown became a familiar idea; but the perfect integrity of St. Louis wore away all distrust, and accustomed even the most jealous feudataries to look upon him as their judge and legislator. And as the royal authority was hitherto shewn only in its most amiable prerogatives, the dispensation of favour, and the redress of wrong, few were watchful enough to remark the transition of the French constitution from a feudal league to an absolute monarchy.

It was perhaps fortunate for the display of St. Louis's virtues, that the throne had already been strengthened by the less innocent exertions of Philip Augustus and Louis VIII. A century earlier, his mild and scrupulous character, unsustained by great actual power, might not have inspired sufficient awe. But the crown was now grown so formidable, and Louis was so eminent

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for his firmness and bravery, qualities, without which every other virtue would have been ineffectual, that no one thought it safe to run wantonly into rebellion, while his disinterested administration gave no one a pretext for it. Hence the latter part of his reign was altogether tranquil, and employed in watching over the public peace, and the security of travellers; administering justice personally, or by the best counsellors; and compiling that code of feudal customs, called the Establishments of St. Louis, which is the first monument of legislation, after the accession of the house of Capet. Not satisfied with the justice of his own conduct, Louis aimed at that act of virtue, which is rarely practised by private men, and had perhaps no example among kings, restitution. Commissaries were appointed to inquire what possessions had been unjustly annexed to the royal domain during the two last reigns. These were restored to the proprietors, or where length of time had made it difficult to ascertain the claimant, their value was distributed among the poor.*

and defects.

It has been hinted already that all this excellence of heart in Louis IX. was not attended with that strength of understanding, which is necessary, we must allow, to complete the usefulness of a sovereign. During his minority, Blanche of Cas-

* Velly, tom. v. p. 150. This historian has very properly dwelt for almost a volume on St. Louis's internal administration; it is one of the most valuable parts of his work. Joinville is a real witness, on whom, when we listen, it is impossible not to rely.—Collection des Mémoires relatifs à l'Histoire de France, tom. ii. p. 140—156.

tile, his mother, had filled the office of regent with great courage and firmness. But after he grew up to manhood, her influence seems to have passed the limit which gratitude and piety would have assigned to it; and, as her temper was not very meek or popular, exposed the king to some degree of contempt. He submitted even to be restrained from the society of his wife Margaret, daughter of Raymond count of Provence, a princess of great virtue and conjugal affection. Joinville relates a curious story, characteristic of Blanche's arbitrary conduct, and sufficiently derogatory to Louis.*

But the principal weakness of this king, which almost effaced all the good effects of his virtues, was superstition. It would be idle to sneer at those habits of abstemiousness and mortification, which were part of the religion of his age, and, at the worst, were only injurious to his own comfort. But he had other prejudices, which, though they may be forgiven, must never be defended. No one was ever more impressed than St. Louis, with a belief in the duty of exterminating all enemies to his own faith. With these, he thought no layman ought to risk himself in the perilous ways of reasoning, but to make answer with his sword as stoutly as a strong arm and a fiery zeal could carry that argument.† Though,

* Collection des Mémoires, tom. ii. p. 241.

† Aussi vous dis je, me dist le roy, que nul, si n'est grant clerc, et theologien parfait, ne doit disputer aux Juifs; mais doit l'omme lay, quant il oit mesdire de la foy chrétienne, defendre la chose, non pas seulement des paroles, mais à bonne espée tranchant, et en frapper les médisans et mescreans a travers le corps, tant qu'elle y

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fortunately for his fame, the persecution against the Albigeois, which had been the disgrace of his father's short reign, was at an end before he reached manhood, he suffered an hypocritical monk to establish a tribunal at Paris for the suppression of heresy, where many innocent persons suffered death.

But no events in Louis's life were more memorable than his two crusades, which lead us to look back on the nature and circumstances of that most singular phenomenon in European history. Though the crusades involved all the western nations of Europe, without belonging peculiarly to any one, yet as France was more distinguished than the rest in most of those enterprizes, I shall introduce the subject as a sort of digression from the main course of French history.

The Crusades.

Even before the violation of Palestine by the Saracen arms, it had been a prevailing custom among the Christians of Europe to visit those scenes rendered interesting by religion, partly through delight in the effects of local association, partly in obedience to the prejudices or commands of superstition. These pilgrimages became more frequent in later times, in spite, perhaps in consequence, of the danger and hardships which at-

pourra entrer. Joinville, in Collection des Mémoires, tom. i. p. 23. This passage, which shews a tolerable degree of bigotry, did not require to be strained farther still by Mosheim, vol. iii. p. 273, (edit. 1803). I may observe by the way, that this writer, who sees nothing in Louis IX. except his intolerance, ought not to have charged him with issuing an edict in favour of the inquisition, in 1229, when he had not assumed the government.

tended them. For a while the Mohammedan possessors of Jerusalem permitted or even encouraged a devotion which they found lucrative; but this was interrupted, whenever the ferocious insolence with which they regarded all infidels, got the better of their rapacity. During the eleventh century, when, from increasing superstition, and some particular fancies, the pilgrims were more numerous than ever, a change took place in the government of Palestine, which was over-run by the Turkish hordes from the north. These barbarians treated the visitors of Jerusalem with still greater contumely, mingling with their Mohammedan bigotry, a consciousness of strength and courage, and a scorn of the Christians, whom they knew only by the debased natives of Greece and Syria, or by these humble and defenceless palmers. When such insults became known throughout Europe, they excited a keen sensation of resentment among nations equally courageous and devout; which, though wanting as yet any definite means of satisfying itself, was ripe for whatever favourable conjuncture might arise.

Twenty years before the first crusade, Gregory VII. had projected the scheme of embodying Europe in arms against Asia; a scheme worthy of his daring mind, and which, perhaps, was never forgotten by Urban II. who in every thing loved to imitate his great predecessor.* This design of

* Gregory addressed, in 1074, a sort of encyclic letter to all who would defend the Christian faith, enforcing upon them the duty of taking up arms against the Saracens, who had almost come up to

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Gregory was founded upon the supplication of the Greek Emperor Michael, which was renewed by Alexius Comnenus to Urban with increased importunity. The Turks had now taken Nice, and threatened, from the opposite shore, the very walls of Constantinople. Every one knows whose hand held a torch to that inflammable mass of enthusiasm that pervaded Europe; the hermit of Picardy, who, roused by witnessed wrongs and imagined visions, journeyed from land to land, the apostle of an holy war. The preaching of Peter was powerfully seconded by Urban. In the coun-
1095 cils of Piacenza and of Clermont, the deliverance of Jerusalem was eloquently recommended and exultingly undertaken. It is the will of God! was the tumultuous cry that broke from the heart and lips of the assembly at Clermont, and these words afford at once the most obvious and most certain explanation of the leading principle of the crusades. Later writers, incapable of sympathizing with the blind fervour of zeal, or anxious to find a pretext for its effect somewhat more congenial to the spirit of our times, have sought political reasons for that which resulted only from predominant affections. No suggestion of these will, I believe, be found in contemporary historians. To rescue the Greek empire from its imminent peril, and thus to secure Christendom from enemies who professed towards it eternal hostility, might have

the walls of Constantinople. No mention of Palestine is made in this letter. Labbé, Concilia, t. x. p. 44. St. Marc, Abrégé Chron. de l'Hist. de l'Italie, t. iii. p. 614.

been a legitimate and magnanimous ground of interference; but it operated scarcely, or not at all, upon those who took the cross. Indeed it argues strange ignorance of the eleventh century to ascribe such refinements of later times even to the princes of that age. The Turks were no doubt repelled from the neighbourhood of Constantinople by the crusaders; but this was a collateral effect of their enterprize. Nor had they any disposition to serve the interest of the Greeks, whom they soon came to hate, and not entirely without provocation, with almost as much animosity as the Moslems themselves.

Every means was used to excite an epidemical frenzy, the remission of penance, the dispensation from those practices of self-denial which superstition imposed or suspended at pleasure, the absolution of all sins, and the assurance of eternal felicity. None doubted that such as perished in the war received immediately the reward of martyrdom.* False miracles and fanatical prophecies, which were never so frequent, wrought up the enthusiasm to a still higher pitch. And these devotional feelings, which are usually thwarted and balanced by other passions, fell in with every motive that could influence the men of that time; with curiosity, restlessness, the love of licence, thirst for war, emulation, ambition. Of the princes who

* Nam qui pro Christi nomine decertantes, in acie fidelium et Christianâ militiâ dicuntur occumbere, non solum infamiæ, verum et peccaminum et delictorum omnimodam credimus abolitionem promereri. Will. Tyr. l. x. c. 20.

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assumed the cross, some probably from the beginning speculated upon forming independent establishments in the East. In later periods, the temporal benefits of undertaking a crusade undoubtedly blended themselves with less selfish considerations. Men resorted to Palestine, as in modern times they have done to the colonies, in order to redeem their time, or repair their fortune. Thus Gui de Lusignan, after flying from France for murder, was ultimately raised to the throne of Jerusalem. To the more vulgar class were held out inducements, which, though absorbed in the over-ruling fanaticism of the first crusade, might be exceedingly efficacious, when it began rather to flag. During the time that a crusader bore the cross, he was free from suit for his debts, and the interest of them was entirely abolished; he was exempted, in some instances at least, from taxes, and placed under the protection of the church, so that he could not be impleaded in any civil court, except on criminal charges, or disputes relating to land.*

None of the sovereigns of Europe took a part in the first crusade; but many of their chief vassals, great part of the inferior nobility, and a countless multitude of the common people. The priests left their parishes, and the monks their cells; and though the peasantry were then in general bound

* Otho of Frisingen, c. 35. has inserted a bull of Eugenius III. in 1146, containing some of these privileges. Others are granted by Philip Augustus in 1214. Ordonnances des Rois de France, tom. i. See also Du Cange, voc. Crucis Privilegia.

to the soil, we find no check given to their emigration for this cause. Numbers of women and children swelled the crowd; it appeared a sort of sacrilege to repel any one from a work which was considered as the manifest design of Providence. But if it were lawful to interpret the will of Providence by events, few undertakings have been more branded by its disapprobation than the crusades. So many crimes and so much misery have seldom been accumulated in so short a space, as in the three years of the first expedition. We should be warranted by contemporary writers in stating the loss of the Christians alone during this period at nearly a million; but, at the least computation, it must have exceeded half that number.* To engage in the crusade, and to perish in it, were almost synonymous. Few of those myriads who were mustered in the plains of Nice returned to gladden their friends in Europe with the story of their triumph at Jerusalem. Besieging alternately and besieged in Antioch, they drained to the lees the cup of misery: three hundred thousand sat down before that place, next year there remained but a sixth part to pursue the enterprize. But their losses were least in the field of battle; the intrinsic superiority of European prowess was constantly displayed; the angel of Asia, to apply the

* William of Tyre says, that at the review before Nice, there were found 600,000 *of both sexes*, exclusive of 100,000 cavalry armed in mail. l. ii. c. 23. But Fulk of Chartres reckons the same number, besides women, children, and priests. An immense slaughter had previously been made in Hungary of the rabble under Gaultier Sans-Avoir.

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bold language of our poet, high and unmatchable, where her rival was not, became a fear; and the Christian lances bore all before them in their shock from Nice to Antioch, Edessa and Jerusalem. It was here, where their triumph was consummated, that it was stained with the most atrocious massacre; not limited to the hour of resistance, but renewed deliberately even after that famous penitential procession to the holy sepulchre, which might have calmed their ferocious dispositions, if, through the misguided enthusiasm of the enterprize, it had not been rather calculated to excite them.*

1099

Latin conquests in Syria.

The conquests obtained at such a price by the first crusade were chiefly comprised in the maritime parts of Syria. Except the state of Edessa beyond the Euphrates,† which, in its best days, extended over great part of Mesopotamia, the Latin possessions never reached more than a few leagues from the sea. Within the barrier of Mount Libanus, their arms might be feared, but their power was never established; and the prophet was still invoked in the mosques of Aleppo and Damascus.

* The work of Mailly, entitled L'Esprit des Croisades, is deserving of considerable praise for its diligence and impartiality. It carries the history, however, no farther than the first expedition. Gibbon's two chapters on the Crusades, though not without inaccuracies, are a brilliant portion of his great work. The original writers are chiefly collected in two folio volumes, entitled Gesta Dei per Francos. Hanover, 1611.

† Edessa was a little Christian principality, surrounded by, and tributary to, the Turks. The inhabitants invited Baldwin, on his progress in the first crusade, and he made no great scruple of supplanting the reigning prince, who indeed is represented as a tyrant and usurper. Esprit des Croisades, t. iv. p. 62. De Guignes, Hist. des Huns, tom. ii. p. 135—162.

The principality of Antioch to the north, the kingdom of Jerusalem, with its feudal dependencies of Tripoli and Tiberias to the south, were assigned, the one to Boemond, a brother of Robert Guiscard, count of Apulia, the other to Godfrey of Boulogne,* whose extraordinary merit had justly raised him to a degree of influence with the chief crusaders, that has been sometimes confounded with a legitimate authority.† In the course of a few years, Tyre, Ascalon, and the other cities upon the sea coast, were subjected by the successors of Godfrey on the throne of Jerusalem. But as their enemies had been stunned, not killed by the western storm, the Latins were constantly molested by the Mohammedans of Egypt and Syria. They were exposed, as the out-post of Christendom, with no respite and few resources. A second crusade, in which the emperor Conrad III. and Louis VII. of France were engaged, each with seventy thousand cavalry, made scarce any diversion; and that vast army wasted away in the passage of Natolia.‡

Second crusade. 1147

* Godfrey never took the title of King of Jerusalem, not chusing, he said, to wear a crown of gold in that city, where his Saviour had been crowned with thorns. Baldwin, Godfrey's brother, who succeeded him within two years, entitles himself, Rex Hierusalem, Latinorum primus. Will. Tyr. l. ii. c. 12.

† The heroes of the crusade are just like those of romance. Godfrey is not only the wisest, but the strongest man in the army. Perhaps Tasso has lost some part of this *physical* superiority for the sake of contrasting him with the imaginary Rinaldo. He cleaves a Turk in twain from the shoulder to the haunch. A noble Arab, after the taking of Jerusalem, requests him to try his sword upon a camel, when Godfrey with ease cuts off the head. The Arab, suspecting there might be something peculiar in the blade, desires him to do the same with *his* sword; and the hero obliges him by demolishing a second camel. Will. Tyr. l. ix. c. 22.

‡ Vertot puts the destruction in the second crusade at two hundred

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Decline of the Latin principalities in the East.

The decline of the Christian establishments in the East is ascribed by William of Tyre to the extreme viciousness of their manners, to the adoption of European arms by the orientals, and to the union of the Mohammedan principalities under a single chief.* Without denying the operation of these causes, and especially the last, it is easy to perceive one more radical than all the three, the inadequacy of their means of self-defence. The kingdom of Jerusalem was guarded only, exclusive of European volunteers, by the feudal service of eight hundred and sixty-six knights, attended each by four archers on horseback, by a militia of five thousand and seventy-five burghers, and by a conscription, in great exigencies, of the remaining population.† William of Tyre mentions an army

thousand men. Hist. de Malthe, p. 129: and from William of Tyre's language, there seems no reason to consider this an exaggeration. L. xvi. c. 19.

* L. xxi. c. 7. John of Vitry also mentions the change of weapons by the Saracens in imitation of the Latins, using the lances and coat of mail instead of bows and arrows. c. 92. But, according to a more ancient writer, part of Soliman's (the Kilidge Arslan of de Guignes) army in the first crusade was in armour, loricis et galeis et clypeis aureis valde armati. Albertus Aquensis, l. ii. c. 27. I may add to this a testimony of another kind, not less decisive. In the abbey of St. Denis, there were ten pictures in stained glass, representing sieges and battles in the first crusade. These were made by order of Suger, the minister of Louis VI. and consequently in the early part of the twelfth century. In many of them the Turks are painted in coats of mail, sometimes even in a plated cuirass. In others, they are quite unarmed, and in flowing robes. Montfaucon, Monumens de la Monarchie Française, t. i. pl. 50.

† Gibbon, c. 98, note 125. Jerusalem itself was very thinly inhabited. For all the heathens, says William of Tyre, had perished in the massacre when the city was taken; or, if any escaped, they were not allowed to return: no heathen being thought fit to dwell in the holy city. Baldwin invited some Arabian Christians to settle in it.

of one thousand three hundred horse and fifteen thousand foot, as the greatest which had ever been collected, and predicts the utmost success from it, if wisely conducted.* This was a little before the irruption of Saladin. In the last fatal battle, Lusignan seems to have had somewhat a larger force.† Nothing can more strikingly evince the ascendancy of Europe, than the resistance of these Frankish acquisitions in Syria during nearly two hundred years. Several of their victories over the Moslems were obtained against such disparity of numbers, that they may be compared with whatever is most illustrious in history or romance.‡ These perhaps were less due to the descendants of the first crusaders, settled in the Holy land,§ than to those volunteers from Europe, whom martial ardour and religious zeal impelled to the service. It was the penance commonly imposed upon men of rank for the most heinous crimes, to serve a number of years under the banner of the cross. Thus a perpetual supply of warriors was poured in from Europe, and in this sense, the crusades may

* L. xxii. c. 27.

† A primo introitu Latinorum in terram sanctam, says John de Vitry, nostri tot milites in uno prœlio congregare nequiverunt. Erant enim mille ducenti milites loricati; peditum autem cum armis, arcubus et balistis circiter viginti millia, infaustæ expeditioni interfuisse dicuntur. Gesta Dei per Francos, p. 1118.

‡ A brief summary of these victories is given by John of Vitry, c. 93.

§ Many of these were of a mongrel extraction, descended from a Frank parent on one side, and Syrian on the other. These were called Poulains, Pullani; and were looked upon as a mean degenerate race. Du Cange; Gloss. v. Pullani; and Observations sur Joinville, in Collection des Mémoires relatifs à l'Histoire de France, t. ii. p. 190.

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be said to have lasted without intermission during the whole period of the Latin settlements. Of these defenders, the most renowned were the military orders of the Knights of the Temple and of the Hospital of St. John;* instituted, the one in 1124, the other in 1118, for the sole purpose of protecting the Holy Land. The Teutonic order, established in 1190, when the kingdom of Jerusalem was falling, soon diverted its schemes of holy warfare to a very different quarter of the world. Large estates, as well in Palestine, as throughout Europe, enriched the two former institutions; but the pride, rapaciousness, and misconduct of both, especially of the Templars, seem to have balanced the advantages derived from
1187 their valour.† At length the famous Saladin, usurping the throne of a feeble dynasty which had reigned in Egypt, broke in upon the Christians of Jerusalem; the king and the kingdom fell into his hands; nothing remained but a few strong towns upon the sea coast.

Third crusade.

1189 These misfortunes roused once more the princes of Europe, and the third crusade was undertaken by three of her sovereigns, the greatest in personal estimation as well as dignity; by the emperor Frederic Barbarossa, Philip Augustus of France,

* The St. John of Jerusalem was neither the Evangelist, nor yet the Baptist, but a certain Cypriot, sirnamed the Charitable, who had been patriarch of Alexandria.

† See a curious instance of the misconduct and insolence of the Templars, in William of Tyre, l. xx. c. 32. The Templars possessed nine thousand manors, and the knights of St. John nineteen thousand, in Europe. The latter were almost as much reproached as the Templars for their pride and avarice. L. xviii. c. 6.

and our own Richard Cœur de Lion. But this, like the preceding enterprize, failed of permanent effect; and those feats of romantic prowess, which made the name of Richard so famous both in Europe and Asia,* proved only the total inefficacy of all exertions in an attempt so impracticable. Palestine was never the scene of another crusade. One great armament was diverted to the siege of Constantinople; and another wasted in fruitless attempts upon Egypt. The emperor Frederic II. afterwards procured the restoration of Jerusalem by the Saracens; but the Christian princes of Syria were unable to defend it, and their possessions were gradually reduced to the maritime towns. Acre, the last of these, was finally taken by storm in 1291; and its ruin closes the history of the Latin dominion in Syria, which Europe had already ceased to protect.

1204

1218

Crusades of St. Louis. 1248

The two last crusades were undertaken by St. Louis. In the first he was attended by 2,800 knights and 50,000 ordinary troops.† He landed at Damietta in Egypt, for that country was now deemed the key of the Holy Land, and easily made himself master of the city. But advancing up the country, he found natural impediments as well as

* When a Turk's horse started at a bush, he would chide him, Joinville says, with, Cuides tu qu' y soit le roi Richard? Women kept their children quiet with the threat of bringing Richard to them.

† The Arabian writers give him 9,500 knights, and 130,000 common soldiers. But I greatly prefer the authority of Joinville, who has twice mentioned the number of knights in the text. On Gibbon's authority, I put the main body at 50,000; but, if Joinville has stated this, I have missed the passage. Their vessels amounted to 1800.

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enemies in his way; the Turks assailed him with Greek fire, an instrument of warfare almost as surprizing and terrible as gunpowder; he lost his brother the Count of Artois, with many knights, at Massoura, near Cairo; and began too late a retreat towards Damietta. Such calamities now fell upon this devoted army, as have scarce ever been surpassed; hunger and want of every kind, aggravated by an unsparing pestilence. At length the king was made prisoner, and very few of the army escaped the Turkish scymetar in battle or in captivity. Four hundred thousand livres were paid as a ransom for Louis. He returned to France, and passed near twenty years in the exercise of those virtues which are his best title to canonization. But the fatal illusions of superstition were still always at his heart; nor did it fail to be painfully observed by his subjects, that he still kept
1270 the cross upon his garment. His last expedition was originally designed for Jerusalem. But he had received some intimation, that the king of Tunis was desirous of embracing Christianity. That these intentions might be carried into effect, he sailed out of his way to the coast of Africa, and laid siege to that city. A fever here put an end to his life, sacrificed to that ruling passion which never would have forsaken him. But he had survived the spirit of the crusades; the disastrous expedition to Egypt had cured his subjects, though not himself, of their folly;* his son, after making

* The refusal of Joinville to accompany the king in this second

terms with Tunis, returned to France; the Christians were suffered to lose what they still retained in the Holy Land; and though many princes, in subsequent ages, talked loudly of renewing the war, the promise, if it were ever sincere, was never accomplished. CHAP. I. PART I. FRANCE.

Louis IX. had increased the royal domain by the annexation of several counties and other less important fiefs; but soon after the accession of Philip III. (sirnamed the bold) it received a far more considerable augmentation. Alfonso, the late king's brother, had been invested with the county of Poitou, ceded by Henry III. together with part of Auvergne and of Saintonge; and held also, as has been said before, the remains of the great fief of Toulouse, in right of his wife Jane, heiress of Raymond VII. Upon his death, and that of his countess, which happened about the same time, the king entered into possession of all Philip III. 1270 1271

crusade is very memorable, and gives us an insight into the bad effects of both expeditions. Le Roy de France, et le Roy de Navarre me pressoient fort de me croiser, et entreprendre le chemin du pelerinage de la croix. Mais je leur respondi, que tandis que j'avoie esté oultre-mer au service de Dieu, que les gens et officiers du Roy de France avoient trop grevé et foullé mes subjets, tant qu'ils en estoient apovris; tellement que jamés il ne seroit, que eulx et moy ne nous en sortissons. Et veoie clerement, si je me mectoie au pelerinage de la croix, que ce seroit la totale destruction de mesdiz povres subjets. Depuis ouy-je dire a plusieurs, que ceux qui luy conseillerent l'enterprinse de la croix, firent un trez grant mal, et pecherent mortellement. Car tandis qu'il fust au royaume de France, tout son royaume vivoit en paix, et regnoit justice. Et incontinent qu'il en fust ors, tout commença à décliner, et à empirer.—T. ii. p. 158.

In the Fabliaux of Le Grand d'Aussy, we have a neat poem by Rutubœuf, a writer of St. Louis's age, in a dialogue between a crusader and a non-crusader, wherein, though he gives the last word to the former, it is plain that he designed the opposite scale to preponderate.—T. ii. p. 163.

CHAP. I. PART I. FRANCE. 1285

these territories. This acquisition brought the sovereigns of France into contact with new neighbours, the kings of Aragon and the powers of Italy. The first great and lasting foreign war which they carried on, was that of Philip III. and Philip IV. against the former kingdom, excited by the insurrection of Sicily. Though effecting no change in the boundaries of their dominions, this war may be deemed a sort of epoch in the history of France and Spain, as well as in that of Italy, to which it more peculiarly belongs.

Philip the Fair. 1285

There still remained five great and ancient fiefs of the French crown; Champagne, Guienne, Flanders, Burgundy, and Britany. But Philip IV., usually called the Fair, married the heiress of the first, a little before his father's death; and although he governed that county in her name, without pretending to reunite it to the royal domain, it was at least, in a political sense, no longer a part of the feudal body. With some of his other vassals, Philip used more violent methods. A parallel might be drawn between this prince and Philip Augustus. But while in ambition, violence of temper, and unprincipled rapacity, as well as in the success of their attempts to establish an absolute authority, they may be considered as nearly equal, we may remark this difference, that Philip the Fair, who was destitute of military talents, gained those ends by dissimulation, which his predecessor had reached by force.

Aggrandizement of the French monarchy under his reign.

The duchy of Guienne, though somewhat abridged of its original extent, was still by far the most considerable of the French fiefs; even

independently of its connexion with England.* Philip, by dint of perfidy, and by the egregious incapacity of Edmund, brother of Edward I., contrived to obtain, and to keep for several years, the possession of this great province. A quarrel among some French and English sailors having provoked retaliation, till a sort of piratical war commenced between the two countries, Edward, as Duke of Guienne, was summoned into the king's court, to answer for the trespasses of his subjects. Upon this, he dispatched his brother to settle terms of reconciliation, with fuller powers than should have been entrusted to so credulous a negociator. Philip so outwitted this prince, through a fictitious treaty, as to procure from him the surrender of all the fortresses in Guienne. He then threw off the mask, and after again summoning Edward to appear, pronounced the confiscation of his fief.† This business is the greatest blemish in the political character of Edward. But his eagerness about the acquisition of Scotland rendered

1292

* Philip was highly offended that instruments made in Guienne should be dated by the year of Edward's reign, and not of his own. This almost sole badge of sovereignty had been preserved by the kings of France during all the feudal ages. A struggle took place about it, which is recorded in a curious letter from John de Greilli to Edward. The French court at last consented to let dates be thus expressed: Actum fuit, regnante P. rege Franciæ, E. rege Angliæ tenente ducatum Aquitaniæ. Several precedents were shewn by the English, where the counts of Toulouse had used the form, Regnante A. comite Tolosæ. Rymer, t. ii. p. 1083. As this is the first time that I quote Rymer, it may be proper to observe that my references are to the London edition, the paging of which is preserved on the margin of that printed at the Hague.

† In the view I have taken of this transaction, I have been guided by several instruments in Rymer, which leave no doubt on my mind. Velly of course represents the matter more favourably for Philip.

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him less sensible to the danger of a possession in many respects more valuable; and the spirit of resistance among the English nobility, which his arbitrary measures had provoked, broke out very opportunely for Philip, to thwart every effort for the recovery of Guienne by arms. But after repeated suspensions of hostilities, a treaty was finally concluded, by which Philip restored the province, on the agreement of a marriage between his daughter Isabel and the heir of England.

1303

To this restitution he was chiefly induced by the ill success that attended his arms in Flanders, another of the great fiefs which this ambitious monarch had endeavoured to confiscate. We have not perhaps as clear evidence of the original injustice of his proceedings towards the count of Flanders, as in the case of Guienne; but he certainly twice detained his person, once after drawing him on some pretext to his court, and again, in violation of the faith pledged by his generals. The Flemings made, however, so vigorous a resistance, that Philip was unable to reduce that small country; and in one famous battle at Courtray, they discomfited a powerful army with that utter loss and ignominy to which the undisciplined impetuosity of the French nobles was pre-eminently exposed.*

1302

Two other acquisitions of Philip the Fair deserve notice; that of the counties of Angouleme and la Marche, upon a sentence of forfeiture (and, as it

* The Flemings took at Courtray 4,000 pair of gilt spurs, which were only worn by knights. These Velly, happily enough, compares to Hannibal's three bushels of gold rings at Cannæ.

seems, a very harsh one) passed against the reigning count; and that of the city of Lyons, and its adjacent territory, which had not even feudally been subject to the crown of France, for more than three hundred years. Lyons was the dowry of Matilda, daughter of Louis IV. on her marriage with Conrad, king of Burgundy, and was bequeathed with the rest of that kingdom by Rodolph, in 1032, to the empire. Frederic Barbarossa conferred upon the archbishop of Lyons all regalian rights over the city, with the title of Imperial Vicar. France seems to have had no concern with it, till St. Louis was called in as a mediator in disputes between the chapter and the city, during a vacancy of the see, and took the exercise of jurisdiction upon himself for the time. Philip III. having been chosen arbitrator in similar circumstances, insisted, before he would restore the jurisdiction, upon an oath of fealty from the new archbishop. This oath, which could be demanded, it seems, by no right but that of force, continued to be taken, till, in 1310, an archbishop resisting what he had thought an usurpation, the city was besieged by Philip IV. and, the inhabitants not being unwilling to submit, was finally united to the French crown.*

Philip the Fair left three sons, who successively reigned in France; Louis, sirnamed Hutin, Philip the Long, and Charles the Fair; with a daughter, Louis X. 1314.

* Velly, t. vii. p. 404. For a more precise account of the political dependence of Lyons and its district, see l'Art de vérifier les Dates, t. ii. p. 469.

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Question of Salic Law. Philip V. 1315.

Isabel, married to Edward II. of England. Louis, the eldest, survived his father little more than a year, leaving one daughter, and his queen pregnant. The circumstances that ensued, require to be accurately stated. Louis had possessed, in right of his mother, the kingdom of Navarre, with the counties of Champagne and Brie. Upon his death, Philip, his next brother, assumed the regency both of France and Navarre; and not long afterwards, entered into a treaty with Eudes, duke of Burgundy, uncle of the princess Jane, Louis's daughter, by which her eventual rights to the succession were to be regulated. It was agreed that in case the queen should be delivered of a daughter, these two princesses, or the survivor of them, should take the grandmother's inheritance, Navarre and Champagne, on releasing all claim to the throne of France. But this was not to take place till their age of consent, when, if they should refuse to make such renunciation, their claim was to remain, and *right to be done to them therein;* but, in return, the release made by Philip of Navarre and Champagne, was to be null. In the mean time, he was *to hold the government* of France, Navarre, and Champagne, receiving homage of vassals in all these countries as *governor;* saving the right of a male heir to the late king, in the event of whose birth, the treaty was not to take effect.*

This convention was made on the 17th of July,

* Hist. de Charles le Mauvais, par Sécousse, vol. ii. p. 2.

1316: and on the 15th of November, the queen brought into the world a son, John I. (as some called him) who died in four days. The conditional treaty was now become absolute; in spirit, at least, if any cavil might be raised about the expression; and Philip was, by his own agreement, precluded from taking any other title than that of regent or governor, until the princess Jane should attain the age to concur in or disclaim the provisional contract of her uncle. Instead of this, however, he procured himself to be consecrated at Rheims; though, on account of the avowed opposition of the duke of Burgundy, and even of his own brother Charles, it was thought prudent to shut the gates during the ceremony, and to dispose guards throughout the town. Upon his return to Paris, an assembly composed of prelates, barons, and burgesses of that city, was convened, who acknowledged him as their lawful sovereign, and, if we may believe an historian, expressly declared, that a woman was incapable of succeeding to the crown of France.* The duke of Burgundy, however, made a show of supporting his niece's interests, till tempted by the prospect of a marriage with the daughter of Philip, he shamefully betrayed her cause, and gave up in her name, for

Jan.6,1317.

* Tunc etiam declaratum fuit, quod in regno Franciæ mulier non succedit. Contin. Gul. Nangis, in Spicilegio d'Achery, tom. iii. This monk, without talents, and probably without private information, is the sole contemporary historian of this important period. He describes the assembly which confirmed Philip's possession of the crown; quamplures proceres et regni nobiles ac magnates unà cum plerisque prælatis et burgensibus Parisiensis civitatis.

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an inconsiderable pension, not only her disputed claim to the whole monarchy, but her unquestionable right to Navarre and Champagne.* I have been rather minute in stating these details, because the transaction is misrepresented by every historian, not excepting those who have written since the publication of the documents which illustrate it.†

In this contest, every way memorable, but especially on account of that which sprang out of it, the exclusion of females from the throne of France was first publicly discussed. The French writers almost unanimously concur in asserting, that such an exclusion was built upon a fundamental maxim of their government. No written law, nor even, so far as I know, the direct testimony of any ancient writer, has been brought forward to confirm this position. For as to the text of the Salic law, which was frequently quoted, and has indeed given a name to this exclusion of females, it can only by a doubtful and refined analogy be considered as bearing any relation to the succession of the crown. It is certain, nevertheless, that, from the time of Clovis, no woman had ever reigned in France; and although not an instance of a sole heiress had occurred before, yet some of the Merovingian kings left daughters, who might, if

* Hist. de Charles le Mauvais, t. ii. p. 6. Jane and her husband, the count of Evreux, recovered Navarre after the death of Charles the Fair.

† Velly, who gives several proofs of disingenuousness in this part of history, mutilates the treaty of the 17th of July, 1316, in order to conceal Philip the Long's breach of faith towards his niece.

not rendered incapable by their sex, have shared with their brothers in partitions then commonly made.* But on the other hand, these times were gone quite out of memory, and France had much in the analogy of her existing usages to reconcile her to a female reign. The crown resembled a great fief; and the great fiefs were universally capable of descending to women. Even at the consecration of Philip himself, Maud, countess of Artois, held the crown over his head among the other peers.† And it was scarcely beyond the recollection of persons living, that Blanche had been legitimate regent of France during the minority of St. Louis.

For these reasons and much more from the provisional treaty concluded between Philip and the duke of Burgundy, it may be fairly inferred, that the Salic law, as it was called, was not so fixed a principle at that time as has been contended. But however this may be, it received at the accession of Philip the Long, a sanction which sub-

* The treaty of Andely, in 587, will be found to afford a very strong presumption, that females were at that time excluded from reigning in France. Greg. Turon. l. ix.

† The continuator of Nangis says indeed of this: de quo aliqui indignati fuerunt. But these were probably the partisans of her nephew Robert, who had been excluded by a judicial sentence of Philip IV. on the ground that the right of representation did not take place in Artois; a decision considered by many as unjust. Robert subsequently renewed his appeal to the court of Philip of Valois: but unhappily for himself, yielded to the temptation of forging documents in support of a claim which seems to have been at least plausible without such aid. This unwise dishonesty, which is not without parallel in more private causes, not only ruined his pretensions to the county of Artois, but produced a sentence of forfeiture, and even of capital punishment against himself. See a pretty good account of Robert's process in Velly, t. viii. p. 262.

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sequent events more thoroughly confirmed. Philip himself leaving only three daughters, his brother Charles mounted the throne; and upon his death, the rule was so unquestionably established, that his only daughter was excluded by the count of Valois, grandson of Philip the Bold. This prince first took the regency, the queen dowager being pregnant, and upon her giving birth to a daughter, was crowned king. No competitor or opponent appeared in France; but one more formidable than any whom France could have produced, was awaiting the occasion to prosecute his imagined right with all the resources of valour and genius, and to carry desolation over that great kingdom with as little scruple, as if he was preferring a suit before a civil tribunal.

Charles IV. 1322

Philip of Valois. 1328

Claim of Edward III.

From the moment of Charles IV.'s death, Edward III. of England buoyed himself up with a notion of his title to the crown of France, in right of his mother Isabel, sister to the three last kings. We can have no hesitation in condemning the injustice of this pretension. Whether the Salic law were or were not valid, no advantage could be gained by Edward. Even if we could forget the express or tacit decision of all France, there stood in his way, Jane, the daughter of Louis X., three of Philip the Long, and one of Charles the Fair. Aware of this, Edward set up a distinction, that, although females were excluded from succession, the same rule did not apply to their male issue; and thus, though his mother Isabel could not herself become queen of France, she might transmit a title to him. But this was contrary to the com-

monest rules of inheritance: and if it could have been regarded at all, Jane had a son, afterwards the famous king of Navarre, who stood one degree nearer to the crown than Edward.

It is asserted in some French authorities, that Edward preferred a claim to the regency, immediately after the decease of Charles the Fair, and that the States General, or at least the peers of France, adjudged that dignity to Philip de Valois. Whether this be true or not, it is clear that he entertained projects of recovering his right as early, though his youth and the embarrassed circumstances of his government threw insuperable obstacles in the way of their execution.* He did

* Letters of Edward III. addressed to certain nobles and towns in the south of France, dated March 28, 1328, four days before the birth of Charles IV.'s posthumous daughter, intimate this resolution. Rymer, vol. iv. p. 344 et seq. But an instrument, dated at Northampton, on the 16th of May, is decisive: This is a procuration to the bishops of Worcester and Litchfield, to demand, and take possession of the kingdom of France, "in our name, which kingdom has devolved and appertains to us as to the right heir." p. 354. To this mission Archbishop Stratford refers, in his vindication of himself from Edward's accusation of treason in 1340; and informs us that the two bishops actually proceeded to France, though without mentioning any further particulars. Novit enim qui nihil ignorat, quod cum quæstio de regno Franciæ post mortem regis Caroli, fratris serenissimæ matris vestræ, in parliamento tunc apud Northampton celebrato, tractata discussaque fuisset; quodque idem regnum Franciæ ad vos hæreditario jure extiterat legitimè devolutum; et super hoc fuit ordinatum, quod duo episcopi, Wigorniensis tunc, nunc autem Wintoniensis, ac Coventriensis et Lichfeldensis in Franciam dirigerent gressus suos, nomineque vestro regnum Franciæ vindicarent et prædicti Philippi de Valesio coronationem pro viribus impedirent; qui juxta ordinationem prædictam legationem iis injunctam tunc assumentes, gressus suos versus Franciam direxerunt; quæ quidem legatio maximam guerræ præsentis materiam ministravit. Wilkins. Concilia, t. i. p. 664.

There is no evidence in Rymer's Fœdera to corroborate Edward's supposed claim to the regency of France upon the death of Charles IV.; and it is certainly suspicious,

PART II.

War of Edward III. in France—Causes of his Success—Civil Disturbances of France—Peace of Bretigni—its Interpretation considered—Charles V.—Renewal of the war—Charles VI.—his Minority and Insanity—Civil Dissensions of the Parties of Orleans and Burgundy—Assassination of both these Princes—Intrigues of their Parties with England under Henry IV.—Henry V. invades France—Treaty of Troyes—State of France in the first years of Charles VII.—Progress and subsequent Decline of the English Arms—their Expulsion from France—change in the Political Constitution—Louis XI.—his Character—Leagues formed against him—Charles duke of Burgundy—his Prosperity and Fall—Louis obtains possession of Burgundy—his Death—Charles VIII.—Acquisition of Britany.

War of Edward III. in France.

No war had broken out in Europe, since the fall of the Roman Empire, so memorable as that of Edward III. and his successors against France, whether we consider its duration, its object, or the magnitude and variety of its events. It was a struggle of one hundred and twenty years, interrupted but once by a regular pacification, where the most ancient and extensive dominion in the civilized world was the prize, twice lost and twice recovered in the conflict, while individual courage was wrought up to that high pitch, which it can seldom display, since the regularity of modern tactics has chastised its enthusiasm, and levelled its distinctions. There can be no occasion to

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dwell upon the events of this war, which are familiar to almost every reader; it is rather my aim to develope and arrange those circumstances, which, when rightly understood, give the clue to its various changes of fortune.

Causes of his success.

France was, even in the fourteenth century, a kingdom of such extent and compactness of figure, such population and resources, and filled with so spirited a nobility, that the very idea of subjugating it by a foreign force must have seemed the most extravagant dream of ambition.* Yet in the course of about twenty years of war, this mighty nation was reduced to the lowest state of exhaustion, and dismembered of considerable provinces by an ignominious peace. What was the combination of political causes, which brought about so strange a revolution, and, though not realizing Edward's hopes to their extent, redeemed them from the imputation of rashness in the judgment of his own and succeeding ages?

Character of Edward III. and his son.

The first advantage which Edward III. possessed in this contest, was derived from the splendour of his personal character, and from the still more eminent virtues of his son. Besides prudence and

* The pope (Benedict XII.) wrote a strong letter to Edward, (March, 1340,) dissuading him from taking the title and arms of France, and pointing out the impossibility of his ever succeeding. I have no doubt but that this was the common opinion. But the Avignon popes were very subservient to France. Clement VI. as well as his predecessor, Benedict XII. threatened Edward with spiritual arms. Rymer, t. v. p. 88 and 465. It required Edward's spirit and steadiness to despise these menaces. But the time, when they were terrible to princes, was rather passed by; and the Holy See never ventured to provoke the king, who treated the church, throughout his reign, with admirable firmness and temper.

military skill, these great princes were endowed with qualities peculiarly fitted for the times in which they lived. Chivalry was then in its zenith; and in all the virtues which adorned the knightly character, in courtesy, munificence, gallantry, in all delicate and magnanimous feelings, none were so conspicuous as Edward III. and the Black Prince. As later princes have boasted of being the best gentlemen, they might claim to be the prowest knights in Europe; a character not quite dissimilar, yet of more high pretension. Their court was, as it were, the sun of that system, which embraced the valour and nobility of the Christian world; and the respect which was felt for their excellencies, while it drew many to their side, mitigated in all the rancour and ferociousness of hostility. This war was like a great tournament, where the combatants fought indeed *à outrance*, but with all the courtesy and fair play of such an entertainment, and almost as much for the honour of their ladies. In the school of the Edwards were formed men not inferior in any nobleness of disposition to their masters; Manni, and the Captal de Buch, Felton, Knollys and Calverley, Chandos, and Lancaster. On the French side, especially after du Guesclin came on the stage, these had rivals almost equally deserving of renown. If we could forget, what never should be forgotten, the wretchedness and devastation that fell upon a great kingdom, too dear a price for the display of any heroism, we might

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count these English wars in France among the brightest periods in history.

Character of Philip VI. and John.

Philip of Valois, and John his son, shewed but poorly in comparison with their illustrious enemies. Yet they had both considerable virtues; they were brave,* just, liberal, and the latter, in particular, of unshaken fidelity to his word. But neither was beloved by his subjects; the misgovernment and extortion of their predecessors during half a century had alienated the public mind, and rendered their own taxes and debasement of the coin intolerable. Philip was made by misfortune, John by nature, suspicious and austere; and although their most violent acts seem never to have wanted absolute justice, yet they were so ill conducted, and of so arbitrary a complexion, that they greatly impaired the reputation, as well as interests, of these monarchs. In the execution of Clisson under Philip, in that of the Connétable d'Eu under John, and still more in that of Harcourt, even in the imprisonment of the king of Navarre, though every one of these might have been guilty of treasons,

* The bravery of Philip is not questioned. But a French historian, in order, I suppose, to enhance this quality, has presumed to violate truth in an extraordinary manner. The challenge sent by Edward, offering to decide his claim to the kingdom by single combat, is well known. Certainly it conveys no imputation on the king of France to have declined this unfair proposal. But Velly has represented him as accepting it, on condition that Edward would stake the crown of England against that of France; an interpolation which may be truly called audacious, since not a word of this is in Philip's letter, preserved in Rymer, which the historian had before his eyes, and actually quotes upon the occasion. Hist. de France, t. viii. p. 382.

there were circumstances enough to exasperate the disaffected, and to strengthen the party of so politic a competitor as Edward.

Resources of the king of England.

Next to the personal qualities of the king of England, his resources in this war must be taken into the account. It was after long hesitation that he assumed the title and arms of France, from which, unless upon the best terms, he could not recede without loss of honour.* In the mean time he strengthened himself by alliances with the emperor, with the cities of Flanders, and with most of the princes in the Netherlands and on the Rhine. Yet I do not know that he profited much by these conventions, since he met with no success, till the scene of the war was changed from the Flemish frontier to Normandy and Poitou.

* The first instrument in which Edward disallows the title of Philip, is his convention with the emperor Louis of Bavaria, wherein he calls him, nunc pro rege Francorum se gerentem. The date of this is August 26, 1337, yet on the 28th of the same month, another instrument gives him the title of king; and the same occurs in subsequent instances. At length we have an instrument of procuration to the Duke of Brabant, October 7, 1337, empowering him to take possession of the crown of France in the name of Edward: attendentes inclitum regnum Franciæ ad nos fore jure successionis legitimè devolutum. Another of the same date appoints the said duke his vicar-general and lieutenant of France. The king assumed in this commission the title, Rex Franciæ et Angliæ; in other instruments he calls himself, Rex Angliæ et Franciæ. It was necessary to obviate the jealousy of the English, who did not, in that age, admit the precedence of France. Accordingly, Edward had two great seals, on which the two kingdoms were named in a different order. But, in the royal arms, those of France were always in the first quarter, as they continued to be until the accession of the house of Brunswick.

Probably Edward III. would not have entered into the war, merely on account of his claim to the crown. He had disputes with Philip about Guienne; and that prince had, rather unjustifiably, abetted Robert Bruce in Scotland. I am not inclined to lay any material stress upon the instigation of Robert of Artois.

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The troops of Hainault alone were constantly distinguished in his service.

But his intrinsic strength was at home. England had been growing in riches since the wise government of his grandfather, Edward I. and through the market opened for her wool with the manufacturing towns of Flanders. She was tranquil within; and her northern enemy, the Scotch, had been defeated and quelled. The parliament, after some slight precautions against a very probable effect of Edward's conquest of France, the reduction of their own island into a province, entered, as warmly as improvidently, into his quarrel. The people made it their own, and grew so intoxicated with the victories of this war, that for some centuries the injustice and folly of the enterprize do not seem to have struck the gravest of our countrymen.

Excellence of the English armies.

There is, indeed, ample room for national exultation at the names of Crecy, Poitiers, and Azincourt. So great was the disparity of numbers upon those famous days, that we cannot, with the French historians, attribute the discomfiture of their hosts merely to mistaken tactics and too impetuous valour. They yielded rather to that intrepid steadiness in danger, which had already become the characteristic of our English soldiers, and which, during four centuries, has ensured their superiority, whenever ignorance or infatuation have not led them into the field. But these victories, and the qualities that secured them, must chiefly be ascribed to the freedom of our constitu-

tion, and to the superior condition of the people. Not the nobility of England, not the feudal tenants won the battles of Crecy and Poitiers; for these were fully matched in the ranks of France; but the yeomen, who drew the bow with strong and steady arms, accustomed to its use in their native fields, and rendered fearless by personal competence and civil freedom. It is well known, that each of the three great victories was due to our archers, who were chiefly of the middle class, and attached, according to the system of that age, to the knights and squires who fought in heavy armour with the lance. Even at the battle of Poitiers, of which our country seems to have the least right to boast, since the greater part of the Black Prince's small army was composed of Gascons, the merit of the English bowmen is strongly attested by Froissart.*

Condition of France after the battle of Poitiers.

Yet the glorious termination to which Edward was enabled, at least for a time, to bring the contest, was rather the work of fortune than of valour and prudence. Until the battle of Poitiers, he had made no progress towards the conquest of France. That country was too vast, and his army too small, for such a revolution. The victory of Crecy gave him nothing but Calais; a post of considerable importance in war and peace, but rather

* Au vray dire, les archers d'Angleterre faisoient à leurs gens grant avantage. Car ils tiroyent tant espessement, que les François ne scavoyent dequel costé entendre, qu'ils ne fussent consuyvis de trayt; et s'avancoyent tousjours ces Anglois, et petit à petit enqueroyent terre. Part I. c. 162.

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adapted to annoy than to subjugate the kingdom. But at Poitiers he obtained the greatest of prizes, by taking prisoner the king of France. Not only the love of freedom tempted that prince to ransom himself by the utmost sacrifices, but his captivity left France defenceless, and seemed to annihilate the monarchy itself. The government was already odious; a spirit was awakened in the people, which might seem hardly to belong to the fourteenth century; and the convulsions of our own time are sometimes strongly parallelled by those which succeeded the battle of Poitiers. Already the States General had established a fundamental principle, that no resolution could be passed as the opinion of the whole, unless each of the three orders concurred in its adoption.* The right of levying and of regulating the collection of taxes was recognized. But that assembly which met at Paris immediately after the battle, went far greater lengths in the reform and controul of government. From the time of Philip the Fair, the abuses natural to arbitrary power had harrassed the people. There now seemed an opportunity of redress; and however seditious, or even treasonable, may have been the motives of those who guided this assembly of the States, especially the famous Marcel, it is clear that many of their reformations tended to liberty and the public good.† But the tumultuous scenes

* Ordonnances des Rois de France, t. ii.

† I must refer the reader onward to the next chapter, for more information on this subject. This separation is inconvenient, but it arose indispensably out of my arrangement, and prevented greater inconveniences.

which passed in the capital, sometimes heightened into civil war, necessarily distracted men from the common defence against Edward. These tumults were excited, and the distraction increased, by Charles, king of Navarre, sirnamed the Bad, to whom the French writers have, not perhaps unjustly, attributed a character of unmixed and inveterate malignity. He was grandson of Louis Hutin, by his daughter Jane, and, if Edward's pretence of claiming through females could be admitted, was a nearer heir to the crown; the consciousness of which seems to have suggested itself to his depraved mind as an excuse for his treacheries, though he could entertain very little prospect of asserting the claim against either contending party. John had bestowed his daughter in marriage on the king of Navarre; but he very soon gave a proof of his character, by procuring the assassination of the king's favourite, Charles de la Cerda. An irreconcileable enmity was the natural result of this crime. Charles became aware that he had offended beyond the possibility of forgiveness, and that no letters of pardon, nor pretended reconciliation, could secure him from the king's resentment. Thus, impelled by guilt into deeper guilt, he entered into alliances with Edward, and fomented the seditious spirit of Paris: Eloquent and insinuating, he was the favourite of the people, whose grievances he affected to pity, and with whose leaders he intrigued. As his paternal inheritance, he possessed the county of Evreux in Normandy. The

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proximity of this to Paris created a formidable diversion in favour of Edward III. and connected the English garrisons of the North with those of Poitou and Guienne.

There is no affliction which did not fall upon France during this miserable period. A foreign enemy was in the heart of the kingdom, the king a prisoner, the capital in sedition, a treacherous prince of the blood in arms against the sovereign authority. Famine, the sure and terrible companion of war, for several years desolated the country. In 1348, a pestilence, the most extensive and unsparing of which we have any memorial, visited France as well as the rest of Europe, and consummated the work of hunger and the sword.* The companies of adventure, mercenary troops in the service of John or Edward, finding no immediate occupation after the truce of 1357, scattered themselves over the country, in search of pillage. No force existed sufficiently powerful to check these robbers in their career. Undismayed by superstition, they compelled the pope to redeem himself in Avignon by the payment of forty thousand

* A full account of the ravages made by this memorable plague may be found in Matteo Villani, the second of that family who wrote the history of Florence. His brother and predecessor, John Villani, was himself a victim to it. The disease began in the Levant about 1346; from whence Italian traders brought it to Sicily, Pisa, and Genoa. In 1348, it passed the Alps and spread over France and Spain; in the next year it reached Britain, and in 1350 laid waste Germany and other northern states; lasting generally about five months in each country. At Florence, more than three out of five died. Muratori, Script. Rerum Italicarum, t. xiv. p. 12. The stories of Boccaccio's Decamerone, as is well known, are supposed to be related by a society of Florentine ladies and gentlemen retired to the country during this pestilence.

crowns.* France was the passive victim of their licence, even after the pacification concluded with England, till some were diverted into Italy, and others led by du Guesclin to the war of Castile. Impatient of this wretchedness, and stung by the insolence and luxury of their lords, the peasantry of several districts broke out into a dreadful insurrection. This was called the Jacquerie, from the cant phrase Jacques bon homme, applied to men of that class; and was marked by all the circumstances of horror incident to the rising of an exasperated and unenlightened populace.† 1358

* Froissart, p. 187. This troop of banditti was commanded by Arnaud de Cervole, sirnamed l'Archiprêtre, from a benefice which, although a layman, he possessed, according to the irregularity of those ages. See a memoir on the life of Arnaud de Cervole, in the twenty-fifth volume of the Academy of Inscriptions.

† The second continuator of Nangis, a monk of no great abilities, but entitled to notice as our most contemporary historian, charges the nobility with spending the money raised upon the people by oppressive taxes, in playing at dice 'et alios indecentes jocos.' D'Achery, Spicilegium, t. iii. p. 114. (folio edition.) All the miseries that followed the battle of Poitiers he ascribes to bad government and neglect of the commonweal; but especially to the pride and luxury of the nobles. I am aware that this writer is biassed in favour of the king of Navarre; but he was an eye-witness of the people's misery, and perhaps a less exceptionable authority than Froissart, whose love of pageantry and habits of feasting in the castles of the great, seem to have produced some insensibility towards the sufferings of the lower classes. It is a painful circumstance, which Froissart and the continuator of Nangis attest, that the citizens of Calais, more interesting than the common heroes of history, were unrewarded, and begged their bread in misery throughout France. Villaret contradicts this, on the authority of an ordinance which he has seen in their favour. But that was not a time when ordinances were very sure of execution. Vill. t. ix. p. 470. I must add, that the celebrated story of the six citizens of Calais, which has of late been called in question, receives strong confirmation from John Villani, who died very soon afterwards. l. xii. c. 96. Froissart of course wrought up the circumstances after his manner. In all the colouring of his history, he is as great a master as Livy; and as little observant of particular truth. M. de Bréquigny, almost the latest of

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Peace of Bretigni.

Subdued by these misfortunes, though Edward had made but slight progress towards the conquest of the country, the regent of France, afterwards Charles V., submitted to the peace of Bretigni. By this treaty, not to mention less important articles, all Guienne, Gascony, Poitou, Saintonge, the Limousin, and the Angoumois, as well as
1360 Calais, and the county of Ponthieu, were ceded in full sovereignty to Edward; a price abundantly compensating his renunciation of the title of France, which was the sole concession stipulated in return. Every care seems to have been taken to make the cession of these provinces complete. The first six articles of the treaty expressly surrender them to the king of England. By the seventh, John and his son engage to convey within a year from the ensuing Michaelmas all their rights over them, and especially those of sovereignty and feudal appeal. The same words are repeated still more emphatically in the eleventh, and some other articles. The twelfth stipulates the exchange of mutual renunciations; by John, of all right over the ceded countries; by Edward, of his claim to

those excellent antiquaries whose memoirs so much illustrate the French Academy of Inscriptions, has discussed the history of Calais, and particularly this remarkable portion of it. Mém. de l'Académie des Inscriptions, t. l.

Petrarch has drawn a lamentable picture of the state of France in 1360, when he paid a visit to Paris. I could not believe, he says, that this was the same kingdom which I had once seen so rich and flourishing. Nothing presented itself to my eyes but a fearful solitude, an extreme poverty, lands uncultivated, houses in ruins. Even the neighbourhood of Paris manifested every where marks of destruction and conflagration. The streets are deserted; the roads overgrown with weeds: the whole is a vast solitude. Mém. de Pétrarque, t. iii. p. 541.

the throne of France. At Calais, the treaty of Bretigni was renewed by John, who, as a prisoner, had been no party to the former compact, with the omission only of the twelfth article, respecting the exchange of renunciations. But that it was not intended to wave them by this omission, is abundantly manifest by instruments of both the kings, in which reference is made to their future interchanges at Bruges, on the feast of St. Andrew, 1361. And, until that time should arrive, Edward promises to lay aside the title and arms of France, (an engagement which he strictly kept,*) and John to act in no respect as king or suzerain over the ceded provinces. Finally, on November 15, 1361, two commissioners are appointed by Edward to receive the renunciations of the king of France at Bruges on the ensuing feast of St. Andrew,† and to do whatever might be mutually required by virtue of the treaty. These, however, seem to have been withheld, and the twelfth article of the treaty of Bretigni was never expressly completed. By mutual instruments, executed at Calais, October 24, it had been declared, that the sovereignty of the ceded provinces, as well as Edward's right to the crown of France, should remain as before, although suspended as to its exercise, until the exchange of renunciations, notwithstanding any words of present conveyance or release in the

* Edward gives John the title of King of France, in an instrument bearing date at Calais, October 22, 1360. Rymer, t. vi. p. 217. The treaty was signed October 24. Id. p. 219.

† Rym. t. vi. p. 339.

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treaties of Bretigni and Calais. And another pair of letters patent, dated October 26, contains the form of renunciations, which, it is mutually declared, should have effect by virtue of the present letters, in case one party should be ready to exchange such renunciations at the time and place appointed, and the other should make default therein. These instruments executed at Calais are so prolix, and so studiously enveloped, as it seems, in the obscurity of technical language, that it is difficult to extract their precise intention. It appears, nevertheless, that whichever party was prepared to perform what was required of him at Bruges on November 30, 1361, the other then and there making default, would acquire not only what our lawyers might call an equitable title, but an actual vested right, by virtue of the provision in the letters patent of October 26, 1360. The appointment above mentioned of Edward's commissioners on November 15, 1361, seems to throw upon the French the burden of proving, that John sent his envoys with equally full powers to the place of meeting, and that the non-interchange of renunciations was owing to the English government. But though an historian, sixty years later, (Juvenal des Ursins) asserts that the French commissioners attended at Bruges, and that those of Edward made default, this is certainly rendered improbable, by the actual appointment of commissioners made by the king of England on the 15th of November, by the silence of Charles V. after the recommencement of hostilities, who would have rejoiced in so

good a ground of excuse, and by the language of some English instruments, complaining that the French renunciations were withheld.* It is suggested by the French authors, that Edward was unwilling to execute a formal renunciation of his claim to the crown. But we can hardly suppose, that, in order to evade this condition, which he had voluntarily imposed upon himself by the treaties of Bretigni and Calais, he would have left his title to the provinces ceded by those conventions im-

* It appears that among other alleged infractions of the treaty, the king of France had received appeals from Armagnac, Albret, and other nobles of Aquitaine, not long after the peace. For, in France would repair this trespass, and send his renunciation of sovereignty, the king should send his of the title of France. Martenne, Thes. Anec. t. i. p. 1487.

Four princes of the blood, or, as they are termed, Seigneurs des Fleurdelys, were detained as hostages for the due execution of the treaty of Bretigni, which, from whatever pretence, was delayed for a considerable time. Anxious to obtain their liberty, they signed a treaty at London in November, 1362, by which, among other provisions, it was stipulated, that the king of France should send fresh letters under his seal, conveying and releasing the territories ceded by the peace, without the clause contained in the former letters, retaining the ressort: et que en ycelles lettres soit expressement compris transport de la souveraineté et du ressort, &c. Et le roi d'Engleterre et ses enfans feront semblablement autiels renonciations, sur ce q'il doit faire de sa partie. Rymer, t. vi. p. 396 This treaty of London was never ratified by the French government; but I use it as a proof, that Edward imputed the want of mutual renunciations to France, and was himself ready to perform his part of the treaty.

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perfect. He certainly deemed it indefeasible, and acted without any complaint from the French court, as the perfect master of those countries. He created his son Prince of Aquitaine, with the fullest powers over that new principality, holding it in fief of the crown of England by the yearly rent of an ounce of gold.* And the court of that great prince was kept for several years at Bordeaux.

I have gone something more than usual into detail as to these circumstances, because a very specious account is given by some French historians and antiquaries, which tends to throw the blame of the rupture in 1368 upon Edward III.† Unfounded as was his pretension to the crown of France, and actuated as we must consider him by

* Rym. t. vi. p. 385—389. One clause is remarkable; Edward reserves to himself the right of creating the province of Aquitaine into a kingdom. So high were the notions of this great monarch, in an age when the privilege of creating new kingdoms was deemed to belong only to the pope and the emperor. Etiam si per nos hujusmodi provinciæ ad regalis honoris titulum et fastigium imposterum sublimentur; quam erectionem faciendam per nos ex tunc specialiter reservamus.

† Besides Villaret, and other historians, the reader, who feels any curiosity on this subject, may consult three memoirs in the 15th volume of the Academy of Inscriptions, by MM. Sécousse, Salier, and Bonamy.—These distinguished antiquaries unite, but the third with much less confidence and passion than the other two, in charging the omission upon Edward. The observations in the text will serve, I hope, to repel their arguments, which, I may be permitted to observe, no English writer has hitherto undertaken to answer. This is not said in order to assume any praise to myself; in fact, I have been guided, in a great degree, by one of the adverse counsel, M. Bonamy, whose statement of facts is very fair, and makes me suspect a little, that he saw the weakness of his own cause.

The authority of Christine de Pisan, a contemporary panegyrist of the French king, is not perhaps very material in such a question: but she seems wholly ignorant of this supposed omission on Edward's side, and puts the justice of Charles V.'s war on a very different basis; namely, that treaties not conducive to the public interest ought not to be kept.—Collection des Mémoires, t. v. p. 137. A principle more often acted upon than avowed!

the most ruinous ambition, his character was unblemished by ill faith. There is no apparent cause to impute the ravages made in France by soldiers formerly in the English service to his instigation, nor any proof of a connexion with the king of Navarre, subsequently to the peace of Bretigni. But a good lesson may be drawn by conquerors from the change of fortune that befel Edward III. A long warfare, and unexampled success, had procured for him some of the richest provinces of France. Within a short time he was entirely stripped of them, less through any particular misconduct, than in consequence of the intrinsic difficulty of preserving such acquisitions. The French were already knit together as one people; and even those, whose feudal duties sometimes led them into the field against their sovereign, could not endure the feeling of dismemberment from the monarchy. When the peace of Bretigni was to be carried into effect, the nobility of the South remonstrated against the loss of the king's sovereignty, and shewed, it is said, in their charters granted by Charlemagne, a promise never to transfer the right of protecting them to another. The citizens of Rochelle implored the king not to desert them, and protested their readiness to pay half their estates in taxes, rather than fall under the power of England. John with heaviness of heart persuaded these faithful people to comply with that destiny which he had not been able to surmount. At length they sullenly submitted: we will obey, they said, the English with our lips,

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but our hearts shall never forget their allegiance.* Such unwilling subjects might perhaps have been won by a prudent government; but the temper of the Prince of Wales, which was rather stern and arbitrary, did not conciliate their hearts to his cause.† After the expedition into Castile, a most injudicious and fatal enterprize, he attempted to impose a heavy tax upon Guienne. This was extended to the lands of the nobility, who claimed an immunity from all impositions. Many of the chief lords in Guienne and Gascony carried their complaints to the throne of Charles V. who had succeeded his father in 1364, appealing to him as the prince's sovereign and judge. After a year's delay, the king ventured to summon the Black Prince to answer these charges before the peers of France, and the war immediately recommenced between the two countries.‡

Charles V. Rupture of the peace of Bretigni.

1368

Though it is impossible to reconcile the conduct of Charles upon this occasion to those stern principles of rectitude which ought always to be obeyed, yet the exceeding injustice of Edward in the former war, and the miseries which he inflicted upon an unoffending people in the prosecution of

* Froissart, part i. chap. 214.

† See an anecdote of his difference with the seigneur d'Albret, one of the principal barons in Gascony, to which Froissart, who was then at Bordeaux, ascribes the alienation of the southern nobility. chap. 244.—Edward III. soon after the peace of Bretigni, revoked all his grants in Guienne.—Rymer, t. vi. p. 391.

‡ On November 20, 1368, some time before the summons of the Prince of Wales, a treaty was concluded between Charles, and Henry, king of Castile, wherein the latter expressly stipulates, that whatever parts of Guienne or England he might conquer, he would give up to the king of France.—Rymer, t. vi. p. 598.

his claim, will go far towards extenuating this breach of the treaty of Bretigni. It is observed, indeed, with some truth by Rapin, that we judge of Charles's prudence by the event; and that if he had been unfortunate in the war, he would have brought on himself the reproaches of all mankind, and even of those writers who are now most ready to extol him. But his measures had been so sagaciously taken, that except through that perverseness of fortune, against which, especially in war, there is no security, he could hardly fail of success. The elder Edward was declining through age, and the younger through disease; the ceded provinces were eager to return to their native king, and their garrisons, as we may infer by their easy reduction, feeble and ill-supplied. France, on the other hand, had recovered breath after her losses: the sons of those who had fallen or fled at Poitiers were in the field; a king, not personally warlike, but eminently wise and popular, occupied the throne of the rash and intemperate John. She was restored by the policy of Charles V. and the valour of du Guesclin. This hero, a Breton gentleman without fortune, or exterior graces, was the greatest ornament of France during that age. Though inferior, as it seems, to Lord Chandos in military skill, as well as in the polished virtues of chivalry, his unwearied activity, his talent of inspiring confidence, his good fortune, the generosity and frankness of his character, have preserved a fresh recollection of his

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name, which has hardly been the case with our countryman.

The English lose all their conquests.

In a few campaigns the English were deprived of almost all their conquests, and even, in a great degree, of their original possessions in Guienne. They were still formidable enemies, not only from their courage and alacrity in the war, but on account of the keys of France which they held in their hands; Bordeaux, Bayonne and Calais, by inheritance or conquest; Brest and Cherbourg, in mortgage from their allies, the duke of Britany and king of Navarre. But the successor of Edward III. was Richard II.; a reign of feebleness and sedition gave no opportunity for prosecuting schemes of ambition. The war, protracted with few distinguished events for several years, was at length suspended by repeated armistices, not indeed very strictly observed, and which the animosity of the English would not permit to settle in any regular treaty. Nothing less than the terms obtained at Bretigni, emphatically called the Great Peace, would satisfy a frank and courageous people, who deemed themselves cheated by the manner of its infraction. The war was therefore always popular in England, and the credit which an ambitious prince, Thomas, duke of Gloucester, obtained in that country, was chiefly owing to the determined opposition which he shewed to all French connexions. But the politics of Richard II. were of a different cast; and Henry IV. was equally anxious to avoid hostilities with France; so that before the unhappy condition of that king-

dom tempted his son to revive the claims of Edward in still more favourable circumstances, there had been thirty years of respite, and even some intervals of friendly intercourse between the two nations. Both indeed were weakened by internal discord; but France more fatally than England. But for the calamities of Charles VI.'s reign, she would probably have expelled her enemies from the kingdom. The strength of that fertile and populous country was recruited with surprizing rapidity. Sir Hugh Calverley, a famous captain in the wars of Edward III. while serving in Flanders, laughed at the herald, who assured him that the king of France's army, then entering the country, amounted to 26,000 lances; asserting that he had often seen their largest musters, but never so much as a fourth part of the number.* The relapse of this great kingdom under Charles VI. was more painful and perilous than her first crisis; but she recovered from each through her intrinsic and inextinguishable resources.

Accession of Charles VI. 1380.

Charles V. sirnamed the Wise, after a reign, which, if we overlook a little obliquity in the rupture of the peace of Bretigni, may be deemed one of the most honourable in French history, dying prematurely, left the crown to his son, a boy of thirteen, under the care of three ambitious uncles, the dukes of Anjou, Berry, and Burgundy. Charles had retrieved the glory, restored the tranquillity, revived the spirit of his country; the severe trials

* Froissart, p. ii. c. 142.

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which exercised his regency, after the battle of Poitiers, had disciplined his mind; he became a sagacious statesman, an encourager of literature, a beneficent law-giver. He erred doubtless, though upon plausible grounds, in accumulating a vast treasure, which the duke of Anjou seized before he was cold in the grave. But all the fruits of his wisdom were lost in the succeeding reign. In a government essentially popular, the youth or imbecility of the sovereign creates no material derangement. In a monarchy, where all the springs of the system depend upon one central force, these accidents, which are sure in the course of a few generations to recur, can scarcely fail to dislocate the whole machine. During the forty years that Charles VI. bore the name of king, rather than reigned in France, that country was reduced to a state far more deplorable than during the captivity of John.

A great change had occurred in the political condition of France during the fourteenth century. As the feudal militia became unserviceable, the expenses of war were increased through the necessity of taking troops into constant pay; and while more luxurious refinements of living heightened the temptations to profuseness, the means of enjoying them were lessened by improvident alienations of the domain. Hence taxes, hitherto almost unknown, were levied incessantly, and with all those circumstances of oppression, which are natural to the fiscal proceedings of an arbitrary government. These, as has been said before, gave

rise to the unpopularity of the two first Valois, and were nearly leading to a complete revolution in the convulsions that succeeded the battle of Poitiers. The confidence reposed in Charles V.'s wisdom and œconomy kept every thing at rest during his reign, though the taxes were still very heavy. But the seizure of his vast accumulations by the duke of Anjou, and the ill faith with which the new government imposed subsidies, after promising their abolition, provoked the people of Paris, and sometimes of other places, to repeated seditions. The States General not only compelled the government to revoke these impositions, and restore the nation, at least according to the language of edicts, to all their liberties, but, with less wisdom, refused to make any grant of money. Indeed a remarkable spirit of democratical freedom was then rising in those classes, on whom the crown and nobility had so long trampled. An example was held out by the Flemings, who, always tenacious of their privileges, because conscious of their ability to maintain them, were engaged in a furious conflict with Louis, count of Flanders.*

Seditions at Paris.

—They are among the eternal lessons of history; for the unjust encroachments of courts, the intemperate passions of the multitude, the ambition of demagogues, the cruelty of victorious factions, will never cease to have their parallels and their analogies; while the military atchievements of distant times afford, in general, no instruction, and can hardly occupy too little of our time in historical studies. The prefaces to the fifth

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The court of France took part in this war; and after obtaining a decisive victory over the citizens of Ghent, Charles VI. returned to chastise those of Paris.* Unable to resist the royal army, the city was treated as the spoil of conquest; its immunities abridged; its most active leaders put to death; a fine of uncommon severity imposed; and the taxes renewed by arbitrary prerogative. But the people preserved their indignation for a favourable moment; and were unfortunately led by it, when rendered subservient to the ambition of others, into a series of crimes, and a long alienation from the interests of their country.

It is difficult to name a limit beyond which taxes will not be borne without impatience, when they appear to be called for by necessity, and faithfully applied; nor is it impracticable for a skilful minister to deceive the people in both these respects. But the sting of taxation is wastefulness. What high-spirited man could see without

and sixth volumes of the Ordonnances des Rois de France, contain more accurate information as to the Parisian disturbances, than can be found in Froissart.

* If Charles VI. had been defeated by the Flemings, the insurrection of the Parisians, Froissart says, would have spread over France; toute gentillesse et noblesse eût été morte et perdue en France; nor would the Jacquerie have ever been si grande et si horrible. c. 120. To the example of the Gantois he ascribes the tumults which broke out about the same time in England as well as in France. c. 84. The Flemish insurrection would probably have had more important consequences, if it had been cordially supported by the English government. But the danger of encouraging that democratical spirit which so strongly leavened the commons of England, might justly be deemed by Richard II.'s council much more than a counterbalance to the advantage of distressing France. When too late, some attempts were made, and the Flemish towns acknowledged Richard as king of France in 1384. Rymer, t. vii. p. 448.

indignation the earnings of his labour, yielded ungrudgingly to the public defence, become the spoil of parasites and peculators? It is this that mortifies the liberal hand of public spirit; and those statesmen who deem the security of government to depend not on laws and armies, but on the moral sympathies and prejudices of the people, will vigilantly guard against even the suspicion of prodigality. In the present stage of society, it is impossible to conceive that degree of misapplication which existed in the French treasury under Charles VI., because the real exigencies of the state could never again be so inconsiderable. Scarcely any military force was kept up; and the produce of the grievous impositions then levied was chiefly lavished upon the royal household, or plundered by the officers of government.* This naturally resulted from the peculiar and afflicting circumstances of this reign. The duke of Anjou pretended to be intitled by the late king's appointment, if not by the constitution of France, to exercise the government as regent during the minority;† but this period, which would naturally

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sumptive heir is entitled to the regency of France; and, if he be so to the regency, whether this includes the custody of the minor's person. The particular case of the duke of Anjou is subject to a considerable apparent difficulty. Two instruments of Charles V., bearing the same date of October 1374, as published by Dupuy, (Traité de majorité des Rois, p. 161.) are plainly irreconcileable with each

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be very short, a law of Charles V. having fixed the age of majority at thirteen, was still more abridged by consent; and after the young monarch's coronation, he was considered as reigning with full personal authority. Anjou, Berry, and Burgundy, together with the king's maternal uncle, the duke of Bourbon, divided the actual exercise of government.

The first of these soon undertook an expedition into Italy, to possess himself of the crown of Naples, in which he perished. Berry was a profuse and voluptuous man, of no great talents; though his rank, and the middle position which he held between struggling parties, made him rather conspicuous throughout the revolutions of that age. The most respectable of the king's uncles,

other; the former giving the exclusive regency to the duke of Anjou, reserving the custody of the minor's person to other guardians; the latter conferring not only this custody, but the government of the kingdom, on the queen, and on the dukes of Burgundy and Bourbon, without mentioning the duke of Anjou's name. Daniel calls these testaments of Charles V., whereas they are in the form of letters patent; and supposes that the king had suppressed both, as neither party seems to have availed itself of their authority in the discussions that took place after the king's death. (Hist. de France, t. iii. p. 662. edit. 1720.) Villaret, as is too much his custom, slides over the difficulty without notice. But M. de Bréquigny, (Mém. de l'Acad. des Inscript. t. l. p. 533.) observes that the second of these instruments, as published by M. Sécousse, in the Ordonnances des Rois, t. vi. p. 406. differs most essentially from that in Dupuy, and contains no mention whatever of the government. It is therefore easily reconcileable with the first, that confers the regency on the duke of Anjou. As Dupuy took it from the same source as Sécousse, namely, the Tresor des Chartes, a strong suspicion of wilful interpolation falls upon him, or upon the editor of his posthumous work, printed in 1655. This date will readily suggest a motive for such an interpolation, to those who recollect the circumstances of France at that time, and for some years before; Anne of Austria having maintained herself in possession of a testamentary regency against the presumptive heir.

the duke of Bourbon, being further removed from the royal stem, and of an unassuming character, took a less active part than his three coadjutors. Burgundy, an ambitious and able prince, maintained the ascendancy, until Charles, weary of a restraint, which had been protracted by his uncles till he was in his twenty-first year, took the reins into his own hands. The dukes of Burgundy and Berry retired from court, and the administration was committed to a different set of men, at the head of whom appeared the constable de Clisson, a soldier of great fame in the English wars. The people rejoiced in the fall of the princes, by whose exactions they had been plundered; but the new ministers soon rendered themselves odious by similar conduct. The fortune of Clisson, after a few years favour, amounted to 1,700,000 livres, equal in weight of silver, to say nothing of the depreciation of money, to ten times that sum at present.*

1387

Derangement of Charles VI.

Charles VI. had reigned five years from his minority, when he was seized with a derangement of intellect, which continued, through a series of recoveries and relapses, to his death. He passed thirty years in a pitiable state of suffering, neglected by his family, particularly by the most infamous of women, Isabel of Bavaria, his queen; to a degree which is hardly credible. The ministers were immediately disgraced; the princes reassumed their stations. For several years the duke

1393

Parties of

* Froissart, p. iv, c. 46.

CHAP. I. PART II. FRANCE.

of Burgundy conducted the government. But this was in opposition to a formidable rival, Louis, duke of Orleans, the king's brother. It was impossible that a prince so near to the throne, favoured by the queen perhaps with criminal fondness, and by the people on account of his external graces, should not acquire a share of power. He succeeded at length in obtaining the whole management of affairs; wherein the outrageous dissoluteness of his conduct, and still more the excessive taxes imposed, rendered him altogether odious. The Parisians compared his administration with that of the duke of Burgundy; and from that time ranged themselves on the side of the latter and his family, throughout the long distractions to which the ambition of these princes gave birth.

Burgundy and Orleans.

The death of the duke of Burgundy, in 1404, after several fluctuations of success between him and the duke of Orleans, by no means left his party without a head. Equally brave and ambitious, but far more audacious and unprincipled, his son John, sirnamed Sans-peur, sustained the same contest. A reconciliation had been, however, brought about with the duke of Orleans; they had sworn reciprocal friendship, and participated, as was the custom, in order to render these obligations more solemn, in the same communion. In the midst of this outward harmony, the duke of Orleans was assassinated in the streets of Paris. After a slight attempt at concealment, Burgundy avowed and boasted of the crime, to which he

Murder of the duke of Orleans.

1407

has been instigated, it is said, by somewhat more than political jealousy.* From this fatal moment, the dissensions of the royal family began to assume the complexion of civil war. The queen, the sons of the duke of Orleans, with the dukes of Berry and Bourbon, united against the assassin. But he possessed, in addition to his own apanage of Burgundy, the county of Flanders as his maternal inheritance; and the people of Paris, who hated the duke of Orleans, readily forgave, or rather exulted in his murder.

It is easy to estimate the weakness of the government, from the terms upon which the duke of Burgundy was permitted to obtain pardon at Chartres, a year after the perpetration of the crime. As soon as he entered the royal presence, every one rose, except the king, queen, and dauphin. The duke, approaching the throne, fell on his knees; when a lord, who acted as a sort of counsel for him, addressed the king: "Sire, the "duke of Burgundy your cousin and servant is "come before you, being informed that he has in- "curred your displeasure, on account of what he "caused to be done to the duke of Orleans your "brother, for your good and that of your king- "dom, as he is ready to prove when it shall please "you to hear it; and therefore requests you, "with all humility, to dismiss your resentment

* Orleans is said to have boasted of the duchess of Burgundy's favours. Vill. t. xii. p. 474. Amelgard, who wrote about eighy years after the time, says, vim etiam inferre attentare præsumpsit. Notices des Manuscrits du Roi, t. i. p. 411.

CHAP. I. PART II. FRANCE.

" towards him, and to receive him into your fa-
" vour."*

This insolent apology was all the atonement that could be extorted for the assassination of the first prince of the blood. 1410 It is not wonderful that the duke of Burgundy soon obtained the management of affairs, and drove his adversaries from the capital. The princes, headed by the father-in-law of the young duke of Orleans, the count of Armagnac, from whom their party was now denominated, raised their standard against him; and the north of France was rent to pieces by a protracted civil war, in which neither party scrupled any extremity of pillage or massacre. Several times peace was made; but each faction, conscious of their own insincerity, suspected that of their adversaries. The king, of whose name both availed themselves, was only in some doubtful intervals of reason capable of rendering legitimate the acts of either. The dauphin, aware of the tyranny which the two parties alternately exercised, was forced, even at the expense of perpetuating a civil war, to balance one against the other, and permit neither to be wholly subdued. He gave peace to the Armagnacs at Auxerre, in despite of the duke of Burgundy; and having afterwards united with them against this prince, 1412 and carried a successful war into Flanders, he disappointed their revenge by concluding with him a treaty at Arras. 1414

Civil war between the parties.

This dauphin, and his next brother, died within

* Monstrelet, part i. f. 112.

sixteen months of each other, by which the rank devolved upon Charles, youngest son of the king. The count of Armagnac, now constable of France, retained possession of the government. But his severity and the weight of taxes revived the Burgundian party in Paris, which a rigid proscription had endeavoured to destroy. He brought on his head the implacable hatred of the queen, whom he had not only shut out from public affairs, but disgraced by the detection of her gallantries. Notwithstanding her ancient enmity to the duke of Burgundy, she made overtures to him, and being delivered by his troops from confinement, declared herself openly on his side. A few obscure persons stole the city keys, and admitted the Burgundians into Paris. The tumult which arose shewed in a moment the disposition of the inhabitants; but this was more horribly displayed a few days afterwards, when the populace rushing to the prisons, massacred the constable d'Armagnac and his partizans. Between three and four thousand persons were murdered on this day, which has no parallel but what our own age has witnessed, in the massacre perpetrated by the same ferocious populace of Paris, under circumstances nearly similar. Not long afterwards an agreement took place between the duke of Burgundy, who had now the king's person, as well as the capital, in his hands, and the dauphin, whose party was enfeebled by the loss of almost all its leaders. This reconciliation, which mutual interest should have rendered permanent, had lasted a very short

April, 1417

1417

June 12. 1418

1419

Assassination of the duke of Burgundy.

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CHAP. I. PART II. FRANCE.

time, when the duke of Burgundy, was assassinated at an interview with Charles, in his presence, and by the hands of his friends, though not perhaps with his previous knowledge.* From whomsoever the crime proceeded, it was a deed of infatuation; and plunged France afresh into a sea of perils, from which the union of these factions had just afforded a hope of extricating her.

Intrigues of French princes with England.

It has been mentioned already, that the English war had almost ceased during the reigns of Richard II. and Henry IV. The former of these was attached by inclination, and latterly by marriage,

* There are three suppositions conceivable to explain this important passage in history, the assassination of John Sans-peur. 1. It was pretended by the dauphin's friends at the time, and has been maintained more lately, (St. Foix, Essais sur Paris, t. iii. p. 209. edit. 1767.) that he had premeditated the murder of Charles, and that his own was an act of self-defence. This is, I think, quite improbable: the dauphin had a great army near the spot, while the duke was only attended by five hundred men. Villaret indeed, and St. Foix, in order to throw suspicion upon the duke of Burgundy's motives, assert that Henry V. accused him of having made proposals to him which he could not accept without offending God: and conjecture that this might mean the assassination of the dauphin. But the expressions of Henry do not relate to any private proposals of the duke, but to demands made by him and the queen, as proxies for Charles VI., in conference for peace, which he says he could not accept without offending God and contravening his own letters patent. (Rymer, t. ix. p. 790.) It is not, however, very clear what this means. 2. The next hypothesis is, that it was the deliberate act of Charles. But his youth, his feebleness of spirit, and especially the consternation into which, by all testimonies, he was thrown by the event, are rather adverse to this explanation. 3. It remains only to conclude that Tanegui de Chastel, and other favourites of the dauphin, long attached to the Orleans faction, who justly regarded the duke as an infamous assassin, and might question his sincerity, or their own safety, if he should regain the ascendant, took advantage of this opportunity to commit an act of retaliation, less criminal, but not less ruinous in its consequences, than that which had provoked it. Charles, however, by his subsequent conduct, recognized their deed, and naturally exposed himself to the resentment of the young duke of Burgundy.

to the court of France: and though the French government shewed at first some disposition to revenge his dethronement, yet the new king's success, as well as domestic quarrels, deterred it from any serious renewal of the war. A long commercial connexion had subsisted between England and Flanders, which the dukes of Burgundy, when they became sovereigns of the latter country upon the death of Count Louis in 1384, were studious to preserve by separate truces.* They acted upon the same pacific policy, when their interest predominated in the councils of France. Henry had even a negociation pending for the marriage of his eldest son with a princess of Burgundy,† when an unexpected proposal from the opposite side set more tempting views before his eyes. The Armagnacs, pressed hard by the duke of Burgundy, offered in consideration of only 4000 troops, the pay of which they would themselves defray, to assist him in the recovery of Guienne and Poitou. Four princes of the blood, Berry, Bourbon, Orleans, and Alençon, disgraced their names by signing this treaty.‡ Henry broke off his alliance with Burgundy, and sent a force into France, which found on its arrival, that the princes had made a separate treaty, without the least concern for their English allies. After his death, Henry V. engaged for some time in a series of negociations

May, 1412

* Rymer, t. viii. p. 511. Villaret, t. xii. p. 174.

† Idem. t. viii. p. 721.

‡ Rymer, t. viii. pp. 726, 737, 738.

CHAP. I. PART II. FRANCE.

with the French court, where the Orleans party now prevailed, and with the duke of Burgundy. He even secretly treated at the same time for a marriage with Catharine of France, (which seems to have been his favourite, as it was ultimately his successful, project,) and with a daughter of the duke; a duplicity not creditable to his memory.* But Henry's ambition, which aimed at the highest quarry, was not long fettered by negociation; and indeed his proposals of marrying Catharine were coupled with such exorbitant demands, as France, notwithstanding all her weakness, could not admit; though she would have ceded Guienne, and given a vast dowry with the princess.† He invaded Normandy, took Harfleur, and won the great battle of Azincourt on his march to Calais.‡

Invasion of France by Henry V. 1415

The flower of French chivalry was mowed down in this fatal day, but especially the chiefs of the Orleans party, and the princes of the royal blood, met with death or captivity. Burgundy had still suffered nothing; but a clandestine nego-

* Rymer, t. ix. p. 136.

† The terms required by Henry's ambassadors in 1415 were the crown of France; or, at least, reserving Henry's rights to that, Normandy, Touraine, Maine, Guienne, with the homage of Britany and Flanders. The French offered Guienne and Saintonge, and a dowry of 800,000 gold crowns for Catharine. The English demanded 2,000,000. Rym. t. ix. p. 218.

‡ The English army at Azincourt was probably of not more than 15,000 men; the French were, at the least, 50,000, and, by some computations, much more numerous. They lost 10,000 killed, of whom 9,000 were knights or gentlemen. Almost as many were made prisoners. The English, according to Monstrelet, lost 1,600 men; but their own historians reduce this to a very small number. It is curious that the duke of Berry, who advised the French to avoid an action, had been in the battle of Poitiers fifty-nine years before. Vill. t. xiii. p. 355.

ciation had secured the duke's neutrality, though he seems not to have entered into a regular alliance till a year after the battle of Azincourt; when by a secret treaty at Calais, he acknowledged the right of Henry to the crown of France, and his own obligation to do him homage, though its performance was to be suspended till Henry should become master of a considerable part of the kingdom.* In a second invasion, the English atchieved the conquest of Normandy; and this, in all subsequent negociations for peace during the life of Henry, he would never consent to relinquish. After several conferences, which his demands rendered abortive, the French court at length consented to add Normandy to the cessions made in the peace of Bretigni;† and the treaty, though labouring under some difficulties, seems to have been nearly completed, when the duke of Burgundy, for reasons unexplained, suddenly came to a reconciliation with the dauphin. This event, which must have been intended adversely to Henry, would probably have broken off all parley on the subject of peace, if it had not been speedily followed by one still more surprizing, the assassination of the duke of Burgundy at Montereau.

July 11, 1419

Sept. 10, 1419

An act of treachery so apparently unprovoked inflamed the minds of that powerful party, which had looked up to the duke as their leader and pa-

* Compare Rym. t. ix. p. 34. 138. 304. 394. The last reference is to the treaty of Calais.

† Rym. t. ix. p. 628. 763. Nothing can be more insolent than the tone of Henry's instructions to his commissioners. p. 628.

CHAP. I. PART II. FRANCE.

tron. The city of Paris, especially, abjured at once its respect for the supposed author of the murder, though the legitimate heir of the crown. A solemn oath was taken by all ranks to revenge the crime; the nobility, the clergy, the parliament, vying with the populace in their invectives against Charles, whom they now styled only pretended (soi disant) dauphin. Philip, son of the assassinated duke, who with all the popularity and much of the ability of his father, did not inherit his depravity, was instigated by a pardonable excess of filial resentment, to ally himself with the king of England. These passions of the people and the duke of Burgundy, concurring with the imbecility of Charles VI., and the rancour of Isabel towards her son, led to the treaty of Troyes. This compact, signed by the queen and duke, as proxies of the king, who had fallen into a state of unconscious idiocy, stipulated that Henry V., upon his marriage with Catharine, should become immediately regent of France, and, after the death of Charles, succeed to the kingdom, in exclusion not only of the dauphin, but of all the royal family.* It is unnecessary to remark that these flagitious provisions

Treaty of Troyes. May, 1420.

* As if through shame on account of what was to follow, the first articles contain petty stipulations about the dower of Catharine. The sixth gives the kingdom of France after Charles's decease to Henry and his heirs. The seventh concedes the immediate regency. Henry kept Normandy by right of conquest, not in virtue of any stipulation in the treaty, which he was too proud to admit. The treaty of Troyes was confirmed by the States General, or rather by a partial convention which assumed the name, in December, 1420. Rym. t. x. p. 30. The parliament of England did the same. Id. p. 110. It is printed at full length by Villaret, t. xv. p. 84.

were absolutely invalid. But they had at the time the strong sanction of force; and Henry might plausibly flatter himself with a hope of establishing his own usurpation as firmly in France, as his father's had been in England. What neither the comprehensive policy of Edward III., the energy of the Black Prince, the valour of their Knollyses and Chandoses, nor his own victories could attain, now seemed, by a strange vicissitude of fortune, to court his ambition. During two years that Henry lived after the treaty of Troyes, he governed the north of France with unlimited authority in the name of Charles VI. The latter survived his son-in-law but a few weeks; and the infant Henry VI. was immediately proclaimed king of France and England, under the regency of his uncle the duke of Bedford.

State of France at the accession of Charles VII.

Notwithstanding the disadvantage of a minority, the English cause was less weakened by the death of Henry, than might have been expected. The duke of Bedford partook of the same character, and resembled his brother in faults as well as virtues; in his haughtiness and arbitrary temper, as in his energy and address. At the accession of Charles VII., the usurper was acknowledged by all the northern provinces of France, except a few fortresses, by most of Guienne, and the dominions of Burgundy. The duke of Britany soon afterwards acceded to the treaty of Troyes, but changed his party again several times within a few years. The central provinces, with Languedoc, Poitou, and Dauphiné, were faithful to the king. For

1422

1423

CHAP. I. PART II. FRANCE.

Causes of the success of the English.

some years the war continued without any decisive result; but the balance was clearly swayed in favour of England. For this it is not difficult to assign several causes. The animosity of the Parisians and the duke of Burgundy against the Armagnac party still continued, mingled in the former with dread of the king's return, whom they judged themselves to have inexpiably offended. The war had brought forward some accomplished commanders in the English army; surpassing, not indeed in valour and enterprize, but in military skill, any whom France could oppose to them. Of these the most distinguished, besides the duke of Bedford himself, were Warwick, Salisbury, and Talbot. Their troops too were still very superior to the French. But this, we must in candour allow, proceeded in a great degree from the mode in which they were raised. The war was so popular in England, that it was easy to pick the best and stoutest recruits,* and their high pay allured men of respectable condition to the service. We find in Rymer a contract of the earl of Salisbury to supply a body of troops, receiving a shilling a day for every man at arms, and sixpence for each archer.† This is perhaps equal to fifteen times the sum at our present value of money. They were

* Monstrelet, part i. f. 303.

† Rym. t. x. p. 392. This contract was for 600 men at arms, including six bannerets, and thirty-four bachelors; and for 1,700 archers; bien et suffisamment montez, armez, et arraiez comme a leurs estats appartient. The pay was, for the earl, 6s. 8d. a day; for a banneret, 4s.; for a bachelor, 2s.; for every other man at arms, 1s.; and for each archer, 6d. Artillery-men were paid higher than men at arms.

bound indeed to furnish their own equipments and horses. But France was totally exhausted by her civil and foreign war, and incompetent to defray the expenses even of the small force which defended the wreck of the monarchy. Charles VII. lived in the utmost poverty at Bourges.* The nobility had scarcely recovered from the fatal slaughter of Azincourt, and the infantry, composed of peasants or burgesses, which had made their army so numerous upon that day, whether from inability to compel their services, or experience of their inefficacy, were never called into the field. It became almost entirely a war of partizans. Every town in Picardy, Champagne, Maine, or wherever the contest might be carried on, was a fortress; and in the attack or defence of these garrisons, the valour of both nations was called into constant exercise. This mode of warfare was undoubtedly the best in the actual state of France, as it gradually improved her troops, and flushed them with petty successes. But what principally led to its adoption, was the license and insubordination of the royalists, who, receiving no pay, owned no controul, and thought that, provided they acted against the English and Burgundians, they were free to choose their own points of attack. Nothing can more evidently shew the weakness of France, than the high terms by which Charles VII. was content to purchase the assistance of some Scottish auxiliaries. The earl of Buchan was made con-

* Villaret, t. xiv. p. 302.

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stable; the earl of Douglas had the duchy of Touraine, with a new title, Lieutenant General of the kingdom. At a subsequent time, Charles offered the province of Saintonge to James I. for an aid of 6,000 men. These Scots fought bravely for France, though unsuccessfully, at Crevant and Verneuil; but it must be owned they set a sufficient value upon their service. Under all these disadvantages, it would be unjust to charge the French nation with any inferiority of courage, even in the most unfortunate periods of this war. Though frequently panic-struck in the field of battle, they stood sieges of their walled towns with matchless spirit and endurance. Perhaps some analogy may be found between the character of the French commonalty during the English invasion, and the Spaniards of the late peninsular war. But to the exertions of those brave nobles who restored the monarchy of Charles VII., Spain has afforded no adequate parallel.

Character of Charles VII.

It was, however, in the temper of Charles VII. that his enemies found their chief advantage. This prince is one of the few, whose character has been improved by prosperity. During the calamitous morning of his reign, he shrunk from fronting the storm, and strove to forget himself in pleasure. Though brave, he was never seen in war; though intelligent, he was governed by flatterers. Those who had committed the assassination at Montereau under his eyes were his first favourites; as if he had determined to avoid the only measure through which he could hope for better

success, a reconciliation with the duke of Burgundy. The count de Richemont, brother of the duke of Britany, who became afterwards one of the chief pillars of his throne, consented to renounce the English alliance, and accept the rank of constable, on condition that these favourites should quit the court. Two others, who successively gained a similar influence over Charles, Richemont publicly caused to be assassinated, assuring the king, that it was for his own and the public good. Such was the debasement of morals and government, which twenty years of civil war had produced! Another favourite, La Tremouille, took the dangerous office, and, as might be expected, employed his influence against Richemont, who for some years lived on his own domains, rather as an armed neutral than a friend, though he never lost his attachment to the royal cause. 1424

It cannot therefore surprize us, that with all these advantages the regent duke of Bedford had almost completed the capture of the fortresses north of the Loire, when he invested Orleans in 1428. If this city had fallen, the central provinces, which were less furnished with defensible places, would have lain open to the enemy; and it is said that Charles VII. in despair was about to retire into Dauphiné. At this time his affairs were restored by one of the most marvellous revolutions in history. A country girl overthrew the power of England. We cannot pretend to explain the surprizing story of the Maid of Orleans; for, however easy it may be to suppose that a heated and

Siege of Orleans.

Joan of Arc.

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enthusiastic imagination produced her own visions, it is a much greater problem to account for the credit they obtained, and for the success that attended her. Nor will this be solved by the hypothesis of a concerted stratagem; which, if we do not judge altogether from events, must appear liable to so many chances of failure, that it could not have suggested itself to any rational person. However, it is certain that the appearance of Joan of Arc turned the tide of war, which from that moment flowed without interruption in Charles's favour. A superstitious awe enfeebled the sinews of the English. They hung back in their own country, or deserted from the army, through fear of the incantations, by which alone they conceived so extraordinary a person to succeed.* As men always make sure of Providence for an ally, whatever untoward fortune appeared to result from preternatural causes was at once ascribed to infernal enemies; and such bigotry may be pleaded as an excuse, though a very miserable one, for the detestable murder of this heroine.†

* Rym. t. x. p. 458—472. This however is conjecture; for the cause of their desertion is not mentioned in these proclamations, though Rymer has printed it in their title. But the duke of Bedford speaks of the turn of success as astonishing, and due only to the superstitious fear which the English had conceived of a female magician. Rymer, t. x. p. 408.

† M. de l'Averdy, to whom we owe the copious account of the proceedings against Joan of Arc, as well as those which Charles VII. instituted in order to rescind the former, contained in the third volume of Notices des Manuscrits du Roi, has justly made this remark, which is founded on the eagerness shewn by the university of Paris in the prosecution, and on its being conducted before an inquisitor; a circumstance exceedingly remarkable in the ecclesiastical history of France. But another material observation arises out of this. The Maid was pursued with peculiar bitterness by her countrymen of the English, or rather Bur-

The spirit which Joan of Arc had roused did not subside. France recovered confidence in her own strength, which had been chilled by a long course of adverse fortune. The king too shook off his indolence,* and permitted Richemont to ex-

The king retrieves his affairs,

gundian faction; a proof, that in 1430 their animosity against Charles VII. was still ardent.

* It is a current piece of history, that Agnes Sorel, mistress of Charles VII., had the merit of dissuading him from giving up the kingdom as lost, at the time when Orleans was besieged in 1428. Mezeray, Daniel, Villaret, and, I believe, every other modern historian, have mentioned this circumstance; and some of them, among whom is Hume, with the addition, that Agnes threatened to leave the court of Charles for that of Henry, affirming, that she was born to be the mistress of a great king. The latter part of this tale is evidently a fabrication, Henry VI. being at the time a child of seven years old. But I have, to say the least, great doubts of the main story. It is not mentioned by contemporary writers. On the contrary, what they say of Agnes leads me to think the dates incompatible. Agnes died (in child-bed, as some say) in 1450; twenty-two years after the siege of Orleans. Monstrelet says, that she had been about five years in the service of the queen, and the king taking pleasure in her liveliness and wit, common fame had spread abroad, that she lived in concubinage with him. She certainly had a child, and was willing that it should be thought the king's; but he always denied it, et le pouvoit bien avoir emprunté ailleurs. pt. iii. f. 25. Olivier de la Marche, another contemporary, who lived in the court of Burgundy, says, about the year 1444, le Roy avoit nouvellement eslévé une pauvre demoiselle, gentifemme, nommée Agnes Sorel, et mis en tel triumphe et tel pouvoir, que son estat estoit a comparer aux grandes princesses de Royaume, et certes c'estoit une des plus belles femmes que je vey oncques, et fit en sa qualité beaucoup au Royaume de France. Elle avancoit devers le Roy jeunes gens d'armes, et gentils compaignons, et dont le Roy depuis fut bien servy. La Marche. Mem. Hist. t. viii. p. 145. Du Clercq, whose memoirs were first published in the same collection, says, that Agnes mourut par poison moult jeune. Ib. t. viii. p. 410. And the continuator of Monstrelet, probably John Chartier, speaks of the youth and beauty of Agnes, which exceeded that of any other woman in France, and of the favour shewn her by the king, which so much excited the displeasure of the dauphin, on his mother's account, that he was suspected of having caused her to be poisoned. fol. 68. The same writer affirms of Charles VII. that he was, before the peace of Arras, de moult belle vie et devote; but afterwards enlaidit sa vie de tenir malles femmes en son hostel. &c. fol. 86.

It is for the reader to judge how far these passages render it improbable, that Agnes Sorel was the mistress of Charles VII. at the siege of Orleans in 1428, and, consequently, whether she is entitled to the praise which she has re-

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clude his unworthy favourites from the court. This led to a very important consequence. The duke of Burgundy, whose alliance with England had been only the fruit of indignation at his father's murder, fell naturally, as that passion wore out, into sentiments more congenial to his birth and interests. A prince of the house of Capet could not willingly see the inheritance of his ancestors transferred to a stranger. And he had met with provocation both from the regent and the duke of Gloucester; who, in contempt of all policy and justice, had endeavoured, by an invalid marriage with Jacqueline countess of Hainault and Holland, to obtain provinces which Burgundy designed for himself. Yet the union of his sister with Bedford, the obligations by which he was bound, and most of all, the favour shewn by Charles VII. to the assassins of his father, kept him for many years on the English side, although

and is reconciled to the duke of Burgundy.

ceived, of being instrumental in the deliverance of France. The tradition, however, is as ancient as Francis I., who made in her honour a quatrain which is well known. This probably may have brought the story more into vogue, and led Mezeray, who was not very critical, to insert it in his history, from which it has passed to his followers. Its origin was apparently the popular character of Agnes. She was the Nell Gwyn of France; and justly beloved, not only for her charity and courtesy, but for bringing forward men of merit, and turning her influence, a virtue very rare in her class, towards the public interest. From thence it was natural to bestow upon her, in after-times, a merit not ill suited to her character, but which an accurate observation of dates seems to render impossible. But whatever honour I am compelled to detract from Agnes Sorel, I am willing to transfer undiminished to a more unblemished female, the injured queen of Charles VII., Mary of Anjou, who has hitherto only shared with the usurper of her rights the credit of awakening Charles from his lethargy. Though I do not know on what foundation even this rests, it is not unlikely to be true, and, in deference to the sex, let it pass undisputed.

rendering it less and less assistance. But at length he concluded a treaty at Arras, the terms of which he dictated rather as a conqueror, than a subject negociating with his sovereign. Charles, however, refused nothing for such an end; and, in a very short time, the Burgundians were ranged with the French against their old allies of England. 1435

Impolicy of the English.

It was now time for the latter to abandon those magnificent projects of conquering France, which temporary circumstances alone had seemed to render feasible. But as it is a natural effect of good fortune in the game of war, to render a people insensible to its gradual change, the English could not persuade themselves that their affairs were irretrievably declining. Hence they rejected the offer of Normandy and Guienne, subject to the feudal superiority of France, which was made to them at the congress of Arras;* and some years afterwards, when Paris with the adjacent provinces had been lost, the English ambassadors, though empowered by their private instructions to relax, stood upon demands quite disproportionate to the actual position of affairs.† As foreign ene-

* Villaret says: Les plénipotentiaires de Charles offrirent la cession de la Normandie et de la Guienne *en toute propriété, sous la clause de l'hommage à la couronne*, t. xv. p. 174. But he does not quote his authority, and I do not like to rely on an historian, not eminent for accuracy in fact, or precision in language. If his expression is correct, the French must have given up the feudal appeal, or *ressort*, which had been the great point in dispute between Edward III. and Charles V. preserving only a homage *per parugium*, as it was called, which implied no actual supremacy. Monstrelet says only, que per certaines conditions luy seroient accordées les seigneuries de Guienne et Normandie.

† See the instructions given to the English negociators in 1439, at length, in Rymer, t. x. p. 724.

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mies, they were odious even in that part of France which had acknowledged Henry;* and when the duke of Burgundy deserted their side, Paris and every other city were impatient to throw off the yoke. A feeble monarchy, and a selfish council, completed their ruin: the necessary subsidies were raised with difficulty, and, when raised, misapplied. It is a proof of the exhaustion of France, that Charles was unable, for several years, to reduce Normandy or Guienne, which were so ill provided for defence.† At last he came with collected strength to the contest, and breaking an armistice upon slight pretences, within two years overwhelmed the English garrisons in each of these provinces. All the inheritance of Henry II. and Eleanor, all the conquests of Edward III. and Henry V. except Calais and a small adjacent district, were irrecoverably torn from the crown of England. A barren title, that idle trophy of disappointed ambition, was preserved, with strange obstinacy, to our own age.

They lose all their conquests.

1449

Condition of France during the second English wars.

In these second English wars, we find little left of that generous feeling, which had, in general, distinguished the contemporaries of Edward III. The very virtues which a state of hostility promotes are not proof against its long continuance, and sink at last into brutal fierceness. Revenge and

* Villaret, t. xiv. p. 448.

† Amelgard, from whose unpublished memoirs of Charles VII. and Louis XI. some valuable extracts are made in the Notices des Manuscrits, t. i. p. 403. attributes the delay in recovering Normandy solely to the king's slothfulness and sensuality. In fact, the people of that province rose upon the English, and almost emancipated themselves with little aid from Charles.

fear excited the two factions of Orleans and Burgundy to all atrocious actions. The troops serving under partizans on detached expeditions, according to the system of the war, lived at free quarters on the people. The histories of the time are full of their outrages, from which, as is the common case, the unprotected peasantry most suffered.* Even those laws of war, which the courteous sympathies of chivalry had enjoined, were disregarded by a merciless fury. Garrisons surrendering after a brave defence were put to death. Instances of this are very frequent. Henry V. excepts Alain Blanchard, a citizen who had distinguished himself during the siege, from the capitulation of Rouen, and orders him to execution. At the taking of a town of Champagne, John of Luxemburg, the Burgundian general, stipulates that every fourth and sixth man should be at his discretion; which he exercises by causing them all to be hanged.†

* Monstrelet passim. A long metrical complaint of the people of France, curious as a specimen of versification, as well as a testimony to the misfortunes of the time, may be found in this historian. part i. fol. 321. Notwithstanding the treaty of Arras, the French and Burgundians made continual incursions upon each other's frontiers, especially about Laon, and in the Vermandois. So that the people had no help, says Monstrelet, si non de crier miserablement a Dieu leur createur vengeance; et que pis estoit, quand ils obtenoient aucun sauf-conduit d'aucuns capitaines peu en estoit entretenu, mesmement tout d'un parti. pt. ii. f. 139. These pillagers were called Ecorcheurs, because they stripped the people of their shirts. And this name superseded that of Armagnacs, by which one side had hitherto been known. Even Xaintrailles and La Hire, two of the bravest champions of France, were disgraced by these habits of outrage. Ibid. fol. 144. 150. 175: Oliv. de la Marche, in Collect. des Mémoires, t. viii. p. 25: t. v. p. 323.

Pour la plupart, says Villaret, se faire guerrier, ou voleur de grands chemins, signifioit la même chose.

† Monstrelet, part. ii. f. 79. This John of Luxemburg, count de Ligny, was a distinguished captain on the Burgundian side, and for a long time would not acquiesce in the treaty of Arras. He disgraced

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Four hundred English from Pontoise, stormed by Charles VII. in 1441, are paraded in chains and naked through the streets of Paris, and thrown afterwards into the Seine. This infamous action cannot but be ascribed to the king.*

Subsequent events in the reign of Charles VII.

At the expulsion of the English, France emerged from the chaos with an altered character and new features of government. The royal authority and supreme jurisdiction of the parliament were universally recognized. Yet there was a tendency towards insubordination left among the great nobility, arising in part from the remains of old feudal privileges, but still more from that lax administration, which, in the convulsive struggles of the war, had been suffered to prevail. In the south were some considerable vassals, the houses of Foix, Albret, and Armagnac, who, on account of their distance from the seat of empire, had always maintained a very independent conduct. The dukes of Britany and Burgundy were of a more formidable character, and might rather be ranked among foreign powers, than privileged subjects. The princes too of the royal blood, who, during the late reign, had learned to partake or contend for the management, were ill-inclined towards Charles VII., himself jealous, from old recollec-

himself by giving up to the duke of Bedford his prisoner Joan of Arc for 10,000 francs. The famous count of St. Pol was his nephew, and inherited his great possessions in the county of Vermandois. Monstrelet relates a singular proof of the good education which his uncle gave him. Some prisoners having been made in an engagement, si fut le jeune comte de St. Pol mis en voye de guerre ; car le comte de Ligny son oncle luy en feit occire aucuns, le quel y prenoit grand plaisir. part ii. fol. 95.

* Villaret, t. xv. p. 327.

tions, of their ascendency. They saw that the constitution was verging rapidly towards an absolute monarchy, from the direction of which they would studiously be excluded. This apprehension gave rise to several attempts at rebellion during the reign of Charles VII. and to the war, commonly entitled, for the Public Weal (du bien public), under Louis XI. Among the pretences alledged by the revolters in each of these, the injuries of the people were not forgotten;* but from the people they received small support. Weary of civil dissension, and anxious for a strong government to secure them from depredation, the French had no inducement to entrust even their real grievances to a few malecontent princes, whose regard for the common good they had much reason to distrust. Every circumstance favoured Charles VII. and his son in the attainment of arbitrary power. The country was pillaged by military ruffians. Some of these had been led by the dauphin to a war in Germany, but the remainder still infested the high roads and villages. Charles established his companies of ordonnance, the basis of the French regular army, in order to protect the country from such depredators. They consisted

* The confederacy formed at Nevers in 1441, by the dukes of Orleans and Bourbon, with many other princes, made a variety of demands, all relating to the grievances which different classes of the state, or individuals among themselves, suffered under the administration of Charles. These may be found at length in Monstrelet, p. ii. f. 193; and are a curious document of the change which was then working in the French constitution. In his answer, the king claims the right, in urgent cases, of levying taxes without waiting for the consent of the States-general.

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of about nine thousand soldiers, all cavalry, of whom fifteen hundred were heavy-armed; a force not very considerable, but the first, except mere body-guards, which had been raised in any part of Europe, as a national standing army.* These troops were paid out of the produce of a permament tax, called the taille; an innovation still more important than the former. But the present benefit cheating the people, now prone to submissive habits, little or no opposition was made; except in Guienne, the inhabitants of which had speedy reason to regret the mild government of England, and vainly endeavoured to return to its protection.†

* Olivier de la Marche speaks very much in favour of the companies of ordonnance, as having repressed the plunderers, and restored internal police. Collect. des Mémoires, t. viii. p. 148. Amelgard pronounces a vehement philippic against them; but it is probable that his observation of the abuses they had fallen into was confined to the reign of Louis XI. Notices des Manuscrits, ubi supra.

† The insurrection of Guienne in 1452, which for a few months restored that province to the English crown, is accounted for in the curious memoirs of Amelgard, above mentioned. It proceeded solely from the arbitrary taxes imposed by Charles VII. in order to defray the expenses of his regular army. The people of Bordeaux complained of exactions not only contrary to their ancient privileges, but to the positive conditions of their capitulation. But the king was deaf to such remonstrances. The province of Guienne, he says, then perceived that it was meant to subject it to the same servitude as the rest of France, where the leeches of the state boldly maintain, as a fundamental maxim, that the king has a right to tax all his subjects, how and when he pleases; which is to advance that in France no man has any thing that he can call his own, and that the king can take all at his pleasure; the proper condition of slaves, whose peculium enjoyed by their master's permission belongs to him, like their persons, and may be taken away whenever he chuses. Thus situated, the people of Guienne, especially those of Bordeaux, alarmed themselves, and excited by some of the nobility, secretly sought about for means to regain their ancient freedom; and having still many connexions with persons of rank in England, they negotiated with them, &c. Notices des Manu-

It was not long before the new despotism exhibited itself in its harshest character. Louis XI. son of Charles VII. who, during his father's reign, had been connected with the discontented princes, came to the throne greatly endowed with those virtues and vices, which conspire to the success of a king. Laborious vigilance in business, contempt of pomp, affability to inferiors, were his excellencies; qualities especially praiseworthy in an age characterized by idleness, love of pageantry, and insolence. To these virtues he added a perfect knowledge of all persons eminent for talents or influence in the countries with which he was connected, and a well-judged bounty, that thought no expense wasted to draw them into his service or interest. In the fifteenth century, this political art had hardly been known, except perhaps in Italy; the princes of Europe had contended with each other by arms, sometimes by treachery, but never with such complicated subtlety of intrigue. Of that insidious cunning, which has since been brought to perfection, Louis XI. may be deemed not absolutely the inventor, but the most eminent improver; and its success has led perhaps to too high an estimate of his abilities. Like most bad men, he sometimes fell into his own snare, and was betrayed by his confidential ministers, because his confidence was generally reposed in the wicked.

Louis XI. 1461

His character.

scrits, p. 433. The same cause is assigned to this revolution by Du Clercq, also a contemporary writer, living in the dominions of Burgundy. Collection des Mémoires, t. ix. p. 400. Villaret has not known, or not chosen to know, any thing of the matter.

And his dissimulation was so notorious, his tyranny so oppressive, that he was naturally surrounded by enemies, and had occasion for all his craft to elude those rebellions and confederacies which might perhaps not have been raised against a more upright sovereign. At one time the monarchy was on the point of sinking before a combination, which would have ended in dismembering France. This was the league denominated of the Public Weal, in which all the princes and great vassals of the French crown were concerned: the dukes of Britany, Burgundy, Alençon, Bourbon, the count of Dunois, so renowned for his valour in the English wars, the families of Foix and Armagnac; and, at the head of all, Charles duke of Berry, the king's brother and presumptive heir. So unanimous a combination was not formed without a strong provocation from the king, or at least without weighty grounds for distrusting his intentions; but the more remote cause of this confederacy, as of those which had been raised against Charles VII., was the critical position of the feudal aristocracy from the increasing power of the crown. This war of the Public Weal was in fact a struggle to preserve their independence; and from the weak character of the duke of Berry, whom they would, if successful, have placed upon the throne, it is possible that France might have been in a manner partitioned among them, in the event of their success, or at least that Burgundy and Britany would have thrown off the sovereignty that galled them.

League denominated of the Public Weal.

1464

The strength of the confederates in this war

much exceeded that of the king; but it was not judiciously employed, and after an indecisive battle at Montlhery, they failed in the great object of reducing Paris, which would have obliged Louis to fly from his dominions. It was his policy to promise every thing, in trust that fortune would afford some opening to repair his losses, and give scope to his superior prudence. Accordingly by the treaty of Conflans, he not only surrendered afresh the towns upon the Somme, which he had lately redeemed from the duke of Burgundy, but invested his brother with the duchy of Normandy as his apanage.

Apanages.

The term apanage denotes the provision made for the younger children of a king of France. This always consisted of lands and feudal superiorities, held of the crown by the tenure of peerage. It is evident, that this usage, as it produced a new class of powerful feudataries, was hostile to the interests and policy of the sovereign, and retarded the subjugation of the ancient aristocracy. But an usage coeval with the monarchy was not to be abrogated, and the scarcity of money rendered it impossible to provide for the younger branches of the royal family by any other means. It was restrained, however, as far as circumstances would permit. Philip IV. declared that the county of Poitiers, bestowed by him on his son, should revert to the crown on the extinction of male heirs. But this, though an important precedent, was not, as has often been asserted, a general law. Charles V. limited the apanages of his own sons to twelve

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thousand livres of annual value in land. By means of their apanages and through the operation of the Salic law, which made their inheritance of the crown a less remote contingency, the princes of the blood royal in France were at all times (for the remark is applicable long after Louis XI.) a distinct and formidable class of men, whose influence was always disadvantageous to the reigning monarch, and, in general, to the people.

No apanage had ever been granted in France so enormous as the duchy of Normandy. One third of the whole national revenue, it is declared, was derived from that rich province. Louis could not therefore sit down under such terms, as, with his usual insincerity, he had accepted at Conflans. In a very short time he attacked Normandy, and easily compelled his brother to take refuge in Britany; nor were his enemies ever able to procure the restitution of Charles's apanage. During the rest of his reign, Louis had powerful coalitions to withstand; but his prudence and compliance with circumstances, joined to some mixture of good fortune, brought him safely through his perils. The duke of Britany, a prince of moderate talents, was unable to make any formidable impression, though generally leagued with the enemies of the king. The less powerful vassals were successfully crushed by Louis with decisive vigour: the duchy of Alençon was confiscated; the count of Armagnac was assassinated: the duke of Nemours, and the constable of St. Pol, a politician as treacherous as Louis, who had long betrayed both him and the

duke of Burgundy, suffered upon the scaffold. The king's brother, Charles, after disquieting him for many years, died suddenly in Guienne, which had finally been granted as his apanage, with strong suspicions of having been poisoned by the king's contrivance. Edward IV. of England was too dissipated and too indolent to be fond of war; and, though he once entered France with an army more considerable than could have been expected after such civil bloodshed as England had witnessed, he was induced, by the stipulation of a large pension, to give up the enterprize.* So terrible was still in France the apprehension of an English war, that Louis prided himself upon no part of his policy so much as the warding this blow. Edward shewed a desire to visit Paris; but the king gave him no invitation, lest, he said, his brother should find some handsome women there, who might tempt him to return in a different manner. Hastings, Howard, and others of Edward's ministers, were secured by bribes in the interest of Louis, which the first of these did not scruple to receive at the same time from the duke of Burgundy.†

1472

1475

* The army of Edward consisted of 1,500 men at arms, and 14,000 archers; the whole very well-appointed. Comines, t. xi. p. 238. There seems to have been a great expectation of what the English would do, and great fears entertained by Louis, who grudged no expense to get rid of them.

† Comines, l. vi. c. 2. Hastings had the mean cunning to refuse to give his receipt for the pension he took from Louis XI. "This present, he said to the king's agent, comes from your master's good pleasure, and not at my request; and if you mean I should receive it, you may put it here into my sleeve, but you shall have no discharge from me; for I will not have it said, that the Great Chamberlain of England is a pensioner of the

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House of Burgundy.

Its successive acquisitions.

This was the most powerful enemy whom the craft of Louis had to counteract. In the last days of the feudal system, when the house of Capet had almost atchieved the subjugation of those proud vassals among whom it had been originally numbered, a new antagonist sprung up to dispute the field against the crown. John, king of France, granted the duchy of Burgundy, by way of apanage, to his third son, Philip. By his marriage with Margaret, heiress of Louis, count of Flanders, Philip acquired that province, Artois, the *county* of Burgundy, (or Franche-comté,) and the Nivernois. Philip the Good, his grandson, who carried the prosperity of this family to its height, possessed himself, by various titles, of the several other provinces which composed the Netherlands. These were fiefs of the empire, but latterly not much dependent upon it, and alienated by their owners without its consent. At the peace of Arras, the districts of Macon and Auxerre were absolutely ceded to Philip, and great part of Picardy conditionally made over to him, redeemable on the payment of four hundred thousand crowns.* These extensive, though not compact

king of France, nor have my name appear in the books of the Chambre des Comptes." Ibid.

* The duke of Burgundy was personally excused from all homage and service to Charles VII.; but, if either died, it was to be paid by the heir, or to the heir. Accordingly, on Charles's death, Philip did homage to Louis. This exemption can hardly therefore have been inserted to gratify the pride of Philip, as historians suppose. Is it not, probable, that, during his resentment against Charles, he might have made some vow never to do him homage; which this reservation in the treaty was intended to preserve?

It is remarkable that Villaret says, the duke of Burgundy was

dominions, were abundant in population and wealth, fertile in corn, wine, and salt, and full of commercial activity. Thirty years of peace which followed the treaty of Arras, with a mild and free government, raised the subjects of Burgundy to a degree of prosperity, quite unparallelled in those times of disorder; and this was displayed in general sumptuousness of dress and feasting. The court of Philip and of his son Charles was distinguished for its pomp and riches, for pageants and tournaments; the trappings of chivalry, perhaps without its spirit: for the military character of Burgundy had been impaired by long tranquillity.*

Character of Charles duke of Burgundy.

During the lives of Philip and Charles VII. each understood the other's rank, and their amity was little interrupted. But their successors, the most opposite of human kind in character, had one common quality, ambition, to render their antipathy more powerful. Louis was eminently

positively excused by the 25th article of the peace of Arras from doing homage to Charles, or *his successors kings of France,* t. xvi. p. 404. For this assertion too he seems to quote the Trésor des Chartes, where probably the original treaty is preserved. Nevertheless, it appears otherwise, as published by Monstrelet at full length, who could have no motive to falsify it; and Philip's conduct in doing homage to Louis is hardly compatible with Villaret's assertion. Daniel copies Monstrelet without any observation. In the same treaty, Philip is entitled, Duke by the grace of God; which was reckoned a mark of independence, and not usually permitted to a vassal.

* P. de Comines, l. i. c. 2. and 3.; l. v. c. 9. Du Clercq, in Collection des Mémoires, t. ix. p. 389. In the investiture granted by John to the first Philip of Burgundy, a reservation is made, that the royal taxes shall be levied throughout that apanage. But during the long hostility between the kingdom and duchy, this could not have been enforced: and by the treaty of Arras, Charles surrendered all right to tax the duke's dominions. Monstrelet, f. 114.

CHAP. I. PART II. FRANCE.

timid and suspicious in policy; Charles intrepid beyond all men, and blindly presumptuous: Louis stooped to any humiliation to reach his aim; Charles was too haughty to seek the fairest means of strengthening his party. An alliance of his daughter with the duke of Guienne, brother of Louis, was what the malecontent French princes most desired, and the king most dreaded; but Charles, either averse to any French connexion, or willing to keep his daughter's suitors in dependence, would never directly accede to that, or any other proposition for her marriage. On Philip's death, in 1467, he inherited a great treasure, which he soon wasted in the prosecution of his schemes. These were so numerous and vast, that he had not time to live, says Comines, to complete them, nor would one half of Europe have contented him. It was his intention to assume the title of King; and the emperor Frederick III. was at one time actually on his road to confer this dignity, when some suspicion caused him to retire; and the project was never renewed.* It is evident that if Charles's capacity had borne any proportion to his pride and courage, or if a prince less politic than Louis XI. had been his contemporary in France, the province of Burgundy must have been lost to the monarchy. For several years these

* Garnier, t. xviii. p. 62. It is observable, that Comines says not a word of this; for which Garnier seems to quote Belcarius, a writer of the sixteenth age. But even Philip, when Morvilliers, Louis's chancellor, used menaces towards him, interrrupted the orator with these words: Je veux que chacun scache que, si j'eusse voulu, je fusse roi. Villaret, t. xvii. p. 44.

great rivals were engaged, sometimes in open hostility, sometimes in endeavours to overreach each other; but Charles, though not much more scrupulous, was far less an adept in these mysteries of politics than the king.

Insubordination of the Flemish cities.

Notwithstanding the power of Burgundy, there were some disadvantages in its situation. It presented (I speak of all Charles's dominions under the common name, Burgundy) a very exposed frontier on the side of Germany and Switzerland, as well as France; and Louis exerted a considerable influence over the adjacent princes of the empire, as well as the united cantons. The people of Liege, a very populous city, had for a long time been continually rebelling against their bishops, who were the allies of Burgundy; Louis was of course not backward to foment their insurrections; which sometimes gave the dukes a good deal of trouble. The Flemings, and especially the people of Ghent, had been during a century noted for their republican spirit and contumacious defiance of their sovereign. Liberty never wore a more unamiable countenance than among these burghers; who abused the strength she gave them by cruelty and insolence. Ghent, when Froissart wrote, about the year 1400, was one of the strongest cities in Europe, and would have required, he says, an army of two hundred thousand men, to besiege it on every side, so as to shut up all access by the Lys and Scheldt. It contained eighty thousand men of age to bear arms;* a calculation which,

* Froissart, part ii. c. 67.

although, as I presume, much exaggerated, is evidence of great actual populousness. Such a city was absolutely impregnable, at a time when artillery was very imperfect both in its construction and management. Hence, though the citizens of Ghent were generally beaten in the field with great slaughter, they obtained tolerable terms from their masters, who knew the danger of forcing them to a desperate defence.

No taxes were raised in Flanders, or indeed throughout the dominions of Burgundy, without consent of the three estates. In the time of Philip, not a great deal of money was levied upon the people; but Charles obtained every year a pretty large subsidy, which he expended in the hire of Italian and English mercenaries.* An almost un-

* Comines, l. iv. c. 13. It was very reluctantly that the Flemings granted any money. Philip once begged for a tax on salt, promising never to ask any thing more; but the people of Ghent, and, in imitation of them, the whole county refused it. Du Clercq, p. 389. Upon his pretence of taking the cross, they granted him a subsidy, though less than he had requested, on condition that it should not be levied, if the crusade did not take place, which put an end to the attempt. The states knew well, that the duke would employ any money they gave him in keeping up a body of gens d'armes like his neighbour, the king of France; and, though the want of such a force exposed their country to pillage, they were too good patriots to place the means of enslaving it in the hands of their sovereign. Grand doute faisoient les sujets, et pour plusieurs raisons, de se mettre en cette sujetion, ou ils voyoient le royaume de France, a cause de ses gens d'armes. A la verité, leur grand doute n'estoit pas sans cause: car quand il se trouva cinq cens hommes d'armes, la volonté luy vint d'en avoir plus, et de plus hardiment entreprendre contre tous ses voisins. Comines, l. iii. c. 4. 9.

Du Clercq, a contemporary writer of very good authority, mentioning the story of a certain widow who had re-married the day after her husband's death, says that she was in some degree excuseable, because it was the practice of the duke and his officers to force rich widows into marrying their soldiers or other servants. t. ix. p. 418.

interrupted success had attended his enterprizes for a length of time, and rendered his disposition still more over-weening. His first failure was before Nuz, a little town near Cologne, the possession of which would have made him nearly master of the whole course of the Rhine, for he had already obtained the landgraviate of Alsace. Though compelled to raise the siege, he succeeded in occupying, next year, the duchy of Lorraine. But his overthrow was reserved for an enemy whom he despised, and whom none could have thought equal to the contest. The Swiss had given him some slight provocation, for which they were ready to atone; but Charles was unused to forbear; and perhaps Switzerland came within his projects of conquest. At Granson in the Pays de Vaud, he was entirely routed, with more disgrace than slaughter.* But, having reassembled his troops, and met the confederate army of Swiss and Germans at Morat near Friburg, he was again defeated with vast loss. On this day the power of Burgundy was dissipated: deserted by his allies, betrayed by his mercenaries, he set his life upon another cast at Nancy, desperately giving battle to the duke of Lorraine with a small dispirited army, and perished in the engagement.

1474

1476

Defeats of Charles at Granson and Morat.

His death.

1477

Now was the moment, when Louis, who had held back while his enemy was breaking his force

Claim of Louis XI. to

* A famous diamond, belonging to Charles of Burgundy, was taken in the plunder of his tent by the Swiss at Granson. After several changes of owners, most of whom were ignorant of its value, it became the first jewel in the French crown. Garnier, t. xviii. p. 361.

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the succession of Burgundy.

against the rocks of Switzerland, came to gather a harvest which his labour had not reaped. Charles left an only daughter, undoubted heiress of Flanders and Artois, as well as of his dominions out of France, but whose right of succession to the duchy of Burgundy was more questionable. Originally, the great fiefs of the crown descended to females; and this was the case with respect to the two first mentioned. But John had granted Burgundy to his son Philip by way of apanage; and it was contended that apanages reverted to the crown in default of male heirs. In the form of Philip's investiture, the duchy was granted to him and his lawful heirs, without designation of sex. The construction therefore must be left to the established course of law. This, however, was by no means acknowledged by Mary, Charles's daughter, who maintained, both that no general law restricted apanages to male heirs, and that Burgundy had always been considered as a feminine fief, John himself having possessed it, not by reversion as king, (for descendants of the first dukes were then living,) but by inheritance derived through females.* Such was this question of suc-

* It is advanced with too much confidence by several French historians, either that the ordinances of Philip IV. and Charles V. constituted a general law against the descent of apanages to female heirs; or that this was a fundamental law of the monarchy. Du Clos, Hist. de Louis XI. t. ii. p. 252. Garnier, Hist. de France, t. xviii. p. 258. The latter position is refuted by frequent instances of female succession; thus Artois had passed by a daughter of Louis le Male into the house of Burgundy. As to the above mentioned ordinances, the first applies only to the county of Poitiers; the second does not contain a syllable that relates to succession. (Ordonnances des Rois, t. vi. p. 54.) The doctrine of excluding female heirs

cession between Louis XI. and Mary of Burgundy, upon the merits of whose pretensions I will not pretend altogether to decide; but shall only observe, that if Charles had conceived his daughter to be excluded from this part of his inheritance, he would probably, at Conflans or Peronne, where he treated upon the vantage-ground, have attempted at least to obtain a renunciation of Louis's claim.

Conduct of Louis.

There was one obvious mode of preventing all further contest, and of aggrandizing the French monarchy far more than by the reunion of Burgundy. This was the marriage of Mary with the dauphin, which was ardently wished in France. Whatever obstacles might occur to this connexion, it was natural to expect on the opposite side; from Mary's repugnance to an infant husband, or from the jealousy which her subjects were likely to entertain, of being incorporated with a country worse governed than their own. The arts of Louis would have been well employed in smoothing these impediments.* But he chose to seize upon

was more consonant to the pretended Salic law, and the recent principles as to inalienability of domain, than to the analogy of feudal rules and precedents. M. Gaillard, in his Observations sur l'Histoire de Velly, Villaret, et Garnier, has a judicious note on this subject. t. iii. p. 304.

* Robertson, as well as some other moderns, have maintained, on the authority of Comines, that Louis XI. ought in policy to have married the young princess to the count of Angouleme, father of Francis I., a connexion which she would not have disliked. But certainly nothing could have been more adverse to the interests of the French monarchy than such a marriage, which would have put a new house of Burgundy at the head of those princes, whose confederacies had so often endangered the crown. Comines is one of the most judicious of historians; but his sincerity may be rather doubtful in the opinion above mentioned; for he

CHAP. I. PART II. FRANCE.

as many towns as, in those critical circumstances, lay exposed to him, and stripped the young duchess of Artois and Franche-Comté. Expectations of the marriage he sometimes held out, but, as it seems, without sincerity. Indeed he contrived irreconcileably to alienate Mary by a shameful perfidy, betraying the ministers whom she had entrusted upon a secret mission, to the people of Ghent, who put them to the torture, and afterwards to death, in the presence and amidst the tears and supplications of their mistress. Thus the French alliance becoming odious in France,

1477

this princess married Maximilian of Austria, son of the emperor Frederic; a connexion which Louis strove to prevent, though it was impossible then to foresee that it was ordained to retard the growth of France, and to bias the fate of Europe during three hundred years. The war lasted till after the death of Mary, who left one son Philip, and one daughter Margaret. By a treaty of peace concluded at Arras, in 1482, it was agreed that this daughter should become the dauphin's wife, with Franche-Comté and Artois, which Louis held already, for her dowry, to be restored in case the marriage should not take effect. The homage of Flanders, and appellant jurisdiction of the parliament over it, were reserved to the crown.

Sickness and death of Louis XI.

Meanwhile Louis was lingering in disease and torments of mind, the retribution of fraud and

wrote in the reign of Charles VIII. when the count of Angouleme was engaged in the same faction as himself.

tyranny. Two years before his death he was struck with an apoplexy, from which he never wholly recovered. As he felt his disorder increasing, he shut himself up in a palace near Tours, to hide from the world the knowledge of his decline.* His solitude was like that of Tiberius at Capreæ, full of terror and suspicion, and deep consciousness of universal hatred. All ranks, he well knew, had their several injuries to remember: the clergy, whose liberties he had sacrificed to the see of Rome, by revoking the Pragmatic Sanction of Charles VII.; the princes, whose blood he had poured upon the scaffold; the parliament, whose course of justice he had turned aside; the commons, who groaned under his extortion, and were plundered by his soldiery.† The palace, fenced with portcullises and spikes of iron, was guarded by archers and cross-bow men, who shot at any that approached by night. Few entered this den; but to them he shewed himself in magnificent apparel, contrary to his former custom, hoping thus to disguise the change of his meagre body. He

* For Louis's illness and death, see Comines, l. vi. c. 7—12, and Garnier, t. xix. p. 112, &c. Plessis, his last residence, about an English mile from Tours, is now a dilapidated farm-house, and can never have been a very large building. The vestiges of royalty about it are few; but the principal apartments have been destroyed, either in the course of ages, or at the revolution.

† See a remarkable chapter in Philip de Comines, l. iv. c. 19. wherein he tells us that Charles VII. had never raised more than 1,800,000 francs a year in taxes; but Louis XI. at the time of his death raised 4,700,000, exclusive of some military impositions; et surement c'estoit compassion de voir et scavoir la pauvreté du peuple. In this chapter he declares his opinion, that no king can justly levy money on his subjects without their consent, and repels all common arguments to the contrary.

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distrusted his friends and kindred, his daughter and his son, the last of whom he had not suffered even to read or write, lest he should too soon become his rival. No man ever so much feared death, to avert which he stooped to every meanness and sought every remedy. His physician had sworn, that if he were dismissed, the king would not survive a week; and Louis, enfeebled by sickness and terror, bore the rudest usage from this man, and endeavoured to secure his services by vast rewards. Always credulous in relics, though seldom restrained by superstition from any crime,* he eagerly bought up treasures of this sort, and even procured a Calabrian hermit, of noted sanctity, to journey as far as Tours in order to restore his health. Philip de Comines, who attended him during this infirmity, draws a parallel betwèen the torments he then endured, and those he had formerly inflicted on others. Indeed the whole of his life was vexation of spirit. "I have known him (says Comines), and been his servant in the flower of his age, and in the time of his greatest prosperity; but never did I see him without uneasiness and care. Of all amusements he loved only the chase, and hawking in its season. And in this he had almost as much uneasiness as plea-

* An exception to this was when he swore by the cross of St. Lo, after which he feared to violate his oath. The constable of St. Pol, whom Louis invited with many assurances to court, bethought himself of requiring this oath, before he trusted his promises, which the king refused; and St. Pol prudently staid away. Garn. t. xviii. p. 72. Some report, that he had a similar respect for a leaden image of the Virgin, which he wore in his hat; as alluded to by Pope: "A perjured prince a leaden saint revere."

sure; for he rode hard and got up early, and sometimes went a great way, and regarded no weather: so that he used to return very weary, and almost ever in wrath with some one. I think that from his childhood he never had any respite of labour and trouble to his death. And I am certain that if all the happy days of his life, in which he had more enjoyment than uneasiness, were numbered, they would be found very few; and at least that they would be twenty of sorrow for every one of pleasure."*

Charles VIII. was about thirteen years old, when he succeeded his father Louis. Though the law of France fixed the majority of her kings at that age, yet it seems not to have been strictly regarded on this occasion, and at least Charles was a minor by nature, if not by law. A contest arose therefore for the regency, which Louis had entrusted to his daughter Anne, wife of the lord de Beaujeu, one of the Bourbon family. The duke of Orleans, afterwards Louis XII., claimed it as presumptive heir of the crown, and was seconded by most of the princes. Anne, however, maintained her ground, and ruled France for several years in her brother's name with singular spirit and address, in spite of the rebellions which the Orleans party raised up against her. These were supported by the duke of Britany, the last of the great vassals of the crown, whose daughter,

Charles VIII. 1483

* Comines, l. vi. c. 13.

CHAP. I. PART II. FRANCE.

as he had no male issue, was the object of as many suitors as Mary of Burgundy.

Affairs of Britany.

The duchy of Britany was peculiarly circumstanced. The inhabitants, whether sprung from the ancient republicans of Armorica, or, as some have thought, from an emigration of Britons during the Saxon invasion, had not originally belonged to the body of the French monarchy. They were governed by their own princes and laws; though tributary, perhaps, as the weaker to the stronger, to the Merovingian kings.* In the ninth century, the dukes of Britany did homage to Charles the Bald, the right of which was transferred afterwards to the dukes of Normandy. This formality, at that time no token of real subjection, led to consequences beyond the views of either party. For when the feudal chains, that had hung so loosely upon the shoulders of the great vassals, began to be straightened by the dexterity of the court, Britany found itself drawn among the rest to the same centre. The old privileges of independence were treated as usurpation; the dukes were menaced with confiscation

* Gregory of Tours says, that the Bretons were subject to France from the death of Clovis, and that their chiefs were styled counts, not kings, l. iv. c. 4. However, it seems clear from Nigellus, a writer of the life of Louis the Debonair, that they were almost independent in his time. There was even a march of the Britannic frontier, which separated it from France; and they had a king of their own. It is hinted, indeed, that they had been formerly subject; for after a victory of Louis over them, Nigellus says, Imperio sociat *perdita regna diu*. In the next reign of Charles the Bald, Hincmar tells us, regnum undique a Paganis, et falsis Christianis, scilicet Britonibus, est circumscriptum. Epist. 18. See too Capitularia Car. Calvi. A.D. 877. tit. 23.

of their fief, their right of coining money disputed, their jurisdiction impaired by appeals to the parliament of Paris. However they stood boldly upon their right, and always refused to pay *liege-homage*, which implied an obligation of service to the lord, in contra-distinction to *simple homage*, which was a mere symbol of feudal dependence.*

About the time that Edward III. made pretension to the crown of France, a controversy somewhat resembling it arose in the duchy of Britany, between the families of Blois and Montfort. This led to a long and obstinate war, connected all along, as a sort of underplot, with the great drama of France and England. At last, Montfort, Edward's ally, by the defeat and death of his antagonist, obtained the duchy, of which Charles V. soon after gave him the investiture. This prince and his family were generally inclined to English connexions; but the Bretons would seldom permit them to be effectual. Two cardinal feelings guided the conduct of this brave and faithful people; the one, an attachment to the French nation and monarchy in opposition to foreign enemies; the other, a zeal for their own privileges, and the family of Montfort, in opposition to the encroachments of the crown. In Francis II. the present duke, the male line of that family was about to be extinguished. His daughter Anne was naturally the object of many suitors, among whom were particularly distinguished the duke of Orleans,

* Villaret, t. xii. p. 82. t. xv. p. 199.

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who seems to have been preferred by herself; the lord of Albret, a member of the Gascon family of Foix, favoured by the Breton nobility, as most likely to preserve the peace and liberties of their country, but whose age rendered him not very acceptable to a youthful princess; and Maximilian, king of the Romans. Britany was rent by factions, and overrun by the armies of the regent of France, who did not lose this opportunity of interfering with its domestic troubles, and of persecuting her private enemy, the duke of Orleans. Anne of Britany, upon her father's death, finding no other means of escaping the addresses of Albret, was married, by proxy, to Maximilian. This however aggravated the evils of the country, since France was resolved at all events to break off so dangerous a connexion. And as Maximilian himself was unable, or took not sufficient pains, to relieve his betrothed wife from her embarrassments, she was ultimately compelled to accept the hand of Charles VIII. He had long been engaged by the treaty of Arras, to marry the daughter of Maximilian, and that princess was educated at the French court. But this engagement had not prevented several years of hostilities, and continual intrigues with the towns of Flanders against Maximilian. The double injury which the latter sustained in the marriage of Charles with the heiress of Britany seemed likely to excite a protracted contest; but the king of France, who had other objects in view, and perhaps was conscious that he had not acted

1489

Marriage of Charles VIII. to the duchess of Britany.

a fair part, soon came to an accommodation, by which he restored Artois and Franche-Comté.

France was now consolidated into a great kingdom; the feudal system was at an end. The vigour of Philip-Augustus, the paternal wisdom of St. Louis, the policy of Philip the Fair, had laid the foundations of a powerful monarchy, which neither the arms of England, nor seditions of Paris, nor rebellions of the princes, were able to shake. Besides the original fiefs of the French crown, it had acquired two countries beyond the Rhone, which properly depended only upon the empire, Dauphiné, under Philip of Valois, by the bequest of Humbert, the last of its princes; and Provence, under Louis XI. by that of Charles of Anjou.* 1492 1481

* The country now called Dauphiné formed part of the kingdom of Arles or Provence, bequeathed by Rodolph III. to the emperor Conrad II. But the dominion of the empire over these new acquisitions being little more than nominal, a few of the chief nobility converted their respective fiefs into independent principalities. One of these was the lord, or dauphin of Vienne, whose family became ultimately masters of the whole province. Humbert, the last of these, made John, son of Philip of Valois, his heir, on condition that Dauphiné should be constantly preserved as a separate possession, not incorporated with the kingdom of France. This bequest was confirmed by the emperor Charles IV. whose supremacy over the province was thus recognized by the kings of France, though it soon came to be altogether disregarded.

Provence, like Dauphiné, was changed from a feudal dependency to a sovereignty, in the weakness and dissolution of the kingdom of Arles, about the early part of the eleventh century. By the marriage of Douce, heiress of the first line of sovereign counts, with Raymond Berenger, count of Barcelona, in 1112, it passed into that distinguished family. In 1167, it was occupied or usurped by Alfonso II. king of Aragon, a relation, but not heir, of the house of Berenger. Alfonso bequeathed Provence to his second son, of the same name, from whom it descended to Raymond Berenger IV. This count dying without male issue in 1245, his youngest daughter Beatrice took possession by virtue of her father's testament.

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Thus having conquered herself, if I may use the phrase, and no longer apprehensive of any foreign enemy, France was prepared, under a monarch flushed with sanguine ambition, to carry her arms into other countries, and to contest the prize of glory and power upon the ample theatre of Europe.*

But this succession being disputed by other claimants, and especially by Louis IX. who had married her eldest sister, she compromised differences by marrying Charles of Anjou, the king's brother. The family of Anjou reigned in Provence, as well as in Naples, till the death of Joan in 1382, who having no children, adopted Louis duke of Anjou, brother of Charles V. as her successor. This second Angevin line ended in 1481 by the death of Charles III. though Renier duke of Lorraine, who was descended through a female, had a claim which it does not seem easy to repel by argument. It was very easy however for Louis XI., to whom Charles III. had bequeathed his rights, to repel it by force, and accordingly he took possession of Provence, which was permanently united to the crown by letters patent of Charles VIII. in 1486.[a]

* The principal authority, exclusive of original writers, on which I have relied for this chapter, is the History of France by Velly, Villaret, and Garnier; a work which, notwithstanding several defects, has absolutely superseded those of Mezeray and Daniel. The part of the Abbé Velly comes down to the middle of the eighth volume, (12mo. edition) and of the reign of Philip de Valois. His continuator Villaret was interrupted by death in the seventeenth volume, and in the reign of Louis XI. In my references to this history, which for common facts I have not thought it necessary to make, I have merely named the author of the particular volume which I quote. This has made the above explanation convenient, as the reader might imagine that I referred to three distinct works. Of these three historians, Garnier, the last, is the most judicious, and, I believe, the most accurate. His prolixity, though a material defect, and one which has occasioned the work itself to become an immeasurable undertaking, which could never be completed on the same scale, is chiefly occasioned by too great a regard to details, and is more tolerable than a similar fault in Villaret, proceeding from a love of idle declamation and sentiment. Villaret, however, is not without merits. He embraces, perhaps more fully than his predecessor Velly, those collateral branches of history which an enlightened reader requires almost

[a] Art de vérifier les Dates, t. ii. p. 445.—Garnier, t. xix. p. 57. 474.

in preference to civil transactions, the laws, manners, literature, and in general the whole domestic records of a nation. These subjects are not always well treated; but the book itself, to which there is a remarkably full index, forms upon the whole a great repository of useful knowledge. Villaret had the advantage of official access to the French archives, by which he has no doubt enriched his history; but his references are indistinct, and his composition breathes an air of rapidity and want of exactness. Velly's characteristics are not very dissimilar. The style of both is exceedingly bad, as has been severely noticed, along with their other defects, by Gaillard, in Observations sur l'Histoire de Velly, Villaret, et Garnier. (4 vols. 12mo. Paris, 1806.)

CHAPTER II.

ON THE FEUDAL SYSTEM, ESPECIALLY IN FRANCE.

PART I.

State of Ancient Germany—Effects of the Conquest of Gaul by the Franks—Tenures of Land—Distinction of Laws—Constitution of the ancient Frank Monarchy—Gradual Establishment of Feudal Tenures—Principles of a Feudal Relation—Ceremonies of Homage and Investiture—Military Service—Feudal Incidents of Relief, Aid, Wardship, &c.—Different Species of Fiefs—Feudal Law-books.

Political state of ancient Germany.

GERMANY, in the age of Tacitus, was divided among a number of independent tribes, differing greatly in population and importance. Their country, overspread with forests and morasses, afforded little arable land, and the cultivation of that little was inconstant. Their occupations were principally the chase and pasturage; without cities, or even any contiguous dwellings. They had kings, elected out of particular families; and other chiefs, both for war and administration of justice, whom merit alone recommended to the public choice. But the power of each was greatly limited; and the decision of all leading questions,

though subject to the previous deliberation of the chieftains, sprung from the free voice of a popular assembly.* The principal men, however, of a German tribe fully partook of that estimation, which is always the reward of valour, and commonly of birth. They were surrounded by a cluster of youths, the most gallant and ambitious of the nation, their pride at home, their protection in the field; whose ambition was flattered, or gratitude conciliated, by such presents as a leader of barbarians could confer. These were the institutions of the people who overthrew the empire of Rome, congenial to the spirit of infant societies, and such as travellers have found among nations in the same stage of manners throughout the world. And, although in the lapse of four centuries between the ages of Tacitus and Clovis, some change may have been wrought by long intercourse with the Romans, yet the foundations of their political system were unshaken.

Partition of lands in conquered provinces.

When these tribes from Germany and the neighbouring countries poured down upon the empire, and began to form permanent settlements, they made a partition of the lands in the conquered provinces between themselves and the original possessors. The Burgundians and Visigoths took two-thirds of their respective conquests,

* De minoribus rebus principes consultant, de majoribus omnes; ita tamen, ut ea quoque, quorum penes plebem arbitrium est, apud principes *pertractentur*. Tac. de Mor. Germ. c. xi. Acidalius and Grotius contend for *prætractentur*; which would be neater, but the same sense appears to be conveyed by the common reading.

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leaving the remainder to the Roman proprietor. Each Burgundian was quartered, under the gentle name of guest, upon one of the former tenants, whose reluctant hospitality confined him to the smaller portion of his estate.* The Vandals in Africa, a more furious race of plunderers, seized all the best lands.† The Lombards of Italy took a third part of the produce. We cannot discover any mention of a similar arrangement in the laws or history of the Franks. It is, however, clear, that they occupied, by public allotment, or individual pillage, a great portion of the lands of France.

Alodial and Salic lands.

The estates possessed by the Franks, as their property, were termed *alodial;* a word, which is sometimes restricted to such as had descended by inheritance.‡ These were subject to no burthen except that of public defence. They passed to all the children equally, or, in their failure, to the nearest kindred.§ But of these alodial possessions, there was a particular species, denominated Salic, from which females were expressly excluded. What these lands were, and what was the cause of the

* Leg. Burgund. c. 54, 55.

† Procopius de Bello Vandal. l. i. c. 5.

‡ Alodial lands are commonly opposed to beneficiary or feudal; the former being strictly proprietary, while the latter depended upon a superior. In this sense the word is of continual recurrence in ancient histories, laws and instruments. It sometimes, however, bears the sense of *inheritance;* and this seems to be its meaning in the famous 62d chapter of the Salic law; de Alodis. Alodium interdum opponitur comparato, says Du Cange, in formulis veteribus. Hence, in the charters of the eleventh century, hereditary fiefs are frequently termed alodia. Recueil des Historiens de France, t. xi. préface. Vaissette, Hist. de Languedoc, t. ii. p. 109.

§ Leg. Salicæ, c. 62.

exclusion, has been much disputed. No solution seems more probable, than that the ancient law-givers of the Salian Franks* prohibited females from inheriting the lands assigned to the nation upon its conquest of Gaul, both in compliance with their ancient usages, and in order to secure the military service of every proprietor. But lands subsequently acquired, by purchase or other means, though equally bound to the public defence, were relieved from the severity of this rule, and presumed not to belong to the class of Salic.† Hence, in the Ripuary law, the code of a tribe of Franks settled upon the banks of the Rhine, and differing rather in words than in substance from the Salic law, which it serves to illustrate, it is said, that a woman cannot inherit her grandfather's estate (hæreditas aviatica), distinguishing such family property from what the father might

* The Salic laws appear to have been framed by a Christian prince, and after the conquest of Gaul. They are therefore not older than Clovis. Nor can they be much later, since they were altered by one of his sons.

† By the German customs, women, though treated with much respect and delicacy, were not endowed at their marriage. Dotem non uxor marito, sed maritus uxori confert. Tacitus, c. 18. A similar principle might debar them of inheritance in fixed possessions. Certain it is, that the exclusion of females was not unfrequent among the Teutonic nations. We find it in the laws of the Thuringians and of the Saxons; both ancient codes, though not free from interpolation. Leibnitz, Scriptores Rerum Brunswicensium, t. i. p. 81 and 83. But this usage was repugnant to the principles of Roman law, which the Franks found prevailing in their new country, and to the natural feeling which leads a man to prefer his own descendants to collateral heirs. One of the precedents in Marculfus, (l. ii. form 12.) calls the exclusion of females, diuturna et impia consuetudo. In another, a father addresses his daughter: Omnibus non habetur incognitum, quod, sicut lex Salica continet, de rebus meis, *quod mihi ex alode parentum meorum obvenit,* apud germanos tuos filios meos minime in hæreditate succedere poteras. Formulæ Marculfo adjectæ, 49. These precedents are supposed to have been compiled about the latter end of the seventh century.

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have acquired.* And Marculfus uses expressions to the same effect. There existed, however, a right of setting aside the law, and admitting females to succession by testament. It is rather probable, from some passages in the Burgundian code, that even the lands of partition (sortes Burgundionum) were not restricted to male heirs.† And the Visigoths admitted women on equal terms to the whole inheritance.

Roman natives of Gaul.

A controversy has been maintained in France, as to the condition of the Romans, or rather, the provincial inhabitants of Gaul, after the invasion of Clovis. But neither those who have considered the Franks as barbarian conquerors, enslaving the former possessors, nor the Abbé du Bos, in whose theory they appear as allies and friendly inmates, are warranted by historical facts. On the one hand, we find the Romans not only possessed of property, and governed by their own laws, but admitted to the royal favour, and the highest offices;‡ while

* C. 56.

† I had in former editions asserted the contrary of this, on the authority of Leg. Burgund. c. 78. which seemed to limit the succession of estates, called *sortes*, to male heirs. But the expressions are too obscure to warrant this inference; and M. Guizot (Essais sur l'Hist. de France, vol. i. p. 95.) refers to the 14th chapter of the same code for the opposite proposition. But this too is not absolutely clear, as a general rule.

‡ Daniel conjectures that Clotaire I. was the first who admitted Romans into the army, which had previously been composed of Franks. From this time we find many in high military command. (Hist. de la Milice Françoise, t. i. p. 11.) It seems by a passage in Gregory of Tours, by Du Bos, (t. iii. p. 547.) that some Romans affected the barbarian character, by letting their hair grow. If this were generally permitted, it would be a stronger evidence of approximation between the two races, than any that Du Bos has adduced. Montesquieu certainly takes it for granted that a Roman might change his law, and thus become to all material intents a Frank. (Esprit des Loix, l. xxviii. c. 4.) But the passage on which he relies is read differently in the manuscripts.

the bishops and clergy, who were generally of that nation,* grew up continually in popular estimation, in riches, and in temporal sway. Yet it is undeniable, that a marked line was drawn at the outset between the conquerors and the conquered. Though one class of Romans retained estates of their own, yet there was another, called tributary, who seem to have cultivated those of the Franks, and were scarcely raised above the condition of predial servitude. But no distinction can be more unequivocal than that which was established between the two nations, in the *weregild*, or composition for homicide. Capital punishment for murder was contrary to the spirit of the Franks, who, like most barbarous nations, would have thought the loss of one citizen ill repaired by that of another. The weregild was paid to the relations of the slain, according to a legal rate. This was fixed by the Salic law at six hundred solidi for an Antrustion of the king; at three hundred for a Roman *conviva regis* (meaning a man of sufficient rank to be admitted to the royal table); at two hundred for a common Frank; at one hundred for a Roman possessor of lands; and at forty-five for a tributary, or cultivator of another's property. In Burgundy, where religion and length of settlement had introduced different ideas, murder was punished with death. But other personal

* Some bishops, if we may judge from their barbarous names, and other circumstances, were not Romans. See, for instance, Gregory of Tours, l. vi. c. 9. But no distinction was made among them on this account. The composition for the murder of a bishop was nine hundred solidi; for that of a priest, six hundred of the same coin. Leges Salicæ, c. 58.

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injuries were compensated, as among the Franks, by a fine, graduated according to the rank and nation of the aggrieved party.*

Distinction of laws.

The barbarous conquerors of Gaul and Italy were guided by notions very different from those of Rome, who had imposed her own laws upon all the subjects of her empire. Adhering in general to their ancient customs without desire of improvement, they left the former habitations in unmolested enjoyment of their civil institutions. The Frank was judged by the Salic or the Ripuary code; the Gaul followed that of Theodosius.† This grand distinction of Roman and barbarian, according to the law which each followed, was common to the Frank, Burgundian, and Lombard kingdoms. But the Ostrogoths, whose settlement in the empire and advance in civility of manners were earlier, inclined to desert their old usages, and adopt the Roman jurisprudence.‡ The laws of the Visigoths too were compiled by bishops upon a Roman foundation, and designed as an uniform code, by which both nations should be governed.§ The name of Gaul or Roman was

* Leges Salicæ, c. 43. Leges Burgundionum, tit. 2. Murder and robbery were made capital by Childebert, king of Paris; but *Francus* was to be sent for trial in the royal court, *debilior persona in loco pendatur*. Baluz. t. i. p. 17. I am inclined to think, that the word *Francus* does not absolutely refer to the nation of the party; but rather to his rank, as opposed to *debilior persona*; and consequently, that it had already acquired the sense of *freeman*, or *free-born* (ingenuus), which is perhaps its strict meaning. Du Cange, voc. Francus, quotes the passage in this sense.

† Inter Romanos negotia causarum Romanis legibus præcipimus terminari. Edict. Clotair. I. circ. 560. Baluz. Capitul. t. i. p. 7.

‡ Giannone, l. iii. c. 2.

§ Hist. de Languedoc, t. i. p. 242. Heineccius, Hist. Juris German. c. i. s. 15.

not entirely lost in that of Frenchman, nor had the separation of their laws ceased, even in the provinces north of the Loire, till after the time of Charlemagne.* Ultimately, however, the feudal customs of succession, which depended upon principles quite remote from those of the civil law, and the rights of territorial justice which the barons came to possess, contributed to extirpate the Roman jurisprudence in that part of France. But in the south, from whatever cause, it survived the revolutions of the middle ages; and thus arose a leading division of that kingdom into *pays coutumiers* and *pays du droit écrit;* the former regulated by a vast variety of ancient usages, the latter by the civil law.†

* Suger, in his life of Louis VI. uses the expression, lex Salica, (Recueil des Historiens, t. xii. p. 24); and I have some recollection of having met with the like words in other writings of as modern a date. But I am not convinced that the original Salic code was meant by this phrase, which may have been applied to the local feudal customs. The capitularies of Charlemagne are frequently termed lex Salica. Many of these are copied from the Theodosian code.

† This division is very ancient, being found in the edict of Pistes, under Charles the Bald, in 864; where we read, in illis regionibus, quæ legem Romanam sequuntur. (Recueil des Historiens, t. vii. p. 664.) Montesquieu thinks, that the Roman law fell into disuse in the north of France on account of the superior advantages, particularly in point of composition for offences, annexed to the Salic law; while that of the Visigoths being more equal, the Romans under their government had no inducement to quit their own code. (Esprit des Loix, l. xxviii. c. 4.) But it does not appear that the Visigoths had any peculiar code of laws till after their expulsion from the kingdom of Toulouse. They then retained only a small strip of territory in France, about Narbonne and Montpelier.

However, the distinction of men according to their laws was preserved for many centuries, both in France and Italy. A judicial proceeding of the year 918, published by the historians of Languedoc, (t. ii. Appendix, p. 56.) proves that the Roman, Gothic, and Salic codes were then kept perfectly separate, and that there were distinct judges for the three nations.

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Provincial government of the French empire.

The kingdom of Clovis was divided into a number of districts each under the government of a count, a name familiar to Roman subjects, by which they rendered the *graf* of the Germans. The authority of this officer extended over all the inhabitants, as well Franks as natives. It was his duty to administer justice, to preserve tranquillity, to collect the royal revenues, and to lead, when required, the free proprietors into the field.* The title of a duke implied a higher dignity, and commonly gave authority over several counties.† These

The Gothic law is referred to as an existing authority in a charter of 1070. Idem, t. iii. p. 274. De Marca, Marca Hispanica, p. 1159. Every man, both in France, (Hist. de Languedoc, t. ii. Append. p. 69.) and in Italy, seems to have had the right of choosing by what law he would be governed. Volumus, says Lothaire I. in 824, ut cunctus populus Romanus interrogetur, quali lege vult vivere, ut tali, quali professi fuerint vivere velle, vivant. Quod si offensionem contra eandem legem fecerint, eidem legi quum profitentur, subjacebunt. Women upon marriage usually changed their law, and adopted that of their husband, returning to their own in widowhood; but to this there are exceptions. Charters are found, as late as the twelfth century, with the expression, qui professus sum lege Longobardicâ [aut] lege Salicâ [aut] lege Alemannorum vivere. But soon afterwards the distinctions were entirely lost, partly through the prevalence of the Roman law, and partly through the multitude of local statutes in the Italian cities. Muratori, Antiquitates Italiæ, Dissertat. 22. Du Cange, v. Lex. Heineccius, Historia Juris Germanici, c. ii. s. 51.

* Marculfi Formulæ, l. i. 32.

† Houard, the learned translator of Littleton, (Anciens Loix des François, t. i. p. 6.) supposes these titles to have been applied indifferently. But the contrary is easily proved, and especially by a line of Fortunatus, quoted by Du Cange and others;

Qui modo dat Comitis, det tibi jura Ducis.

The cause of M. Houard's error may perhaps be worth noticing. In the above cited form of Marculfus, a *precedent* (in law language) is given for the appointment of a duke, count, or patrician. The material part being the same, it was only necessary to *fill up the blanks*, as we should call it, by inserting the proper designation of office. It is expressed therefore; actionem *comitatus, ducatus, aut patriciatus* in *pago illo*, quam *antecessor tuus ille* usque nunc visus est egisse, tibi agendum regendumque commisimus. Montesquieu has fallen into a similar mistake, (l. xxx. c. 16.) forgetting for

offices were originally conferred during pleasure; but the claim of a son to succeed his father would often be found too plausible or too formidable to be rejected, and it is highly probable that, even under the Merovingian kings, these provincial governors had laid the foundations of that independence which was destined to change the countenance of Europe.* The Lombard dukes, those especially of Spoleto and Benevento, acquired very early an hereditary right of governing their

a moment, like Houard, that these instruments in Marculfus were not records of real transactions, but general forms for future occasion.

The office of patrician is rather more obscure. It seems to have nearly corresponded with what was afterwards called mayor of the palace, and to have implied the command of all the royal forces. Such at least were Celsus, and his successor Mummolus under Gontran. This is probable too from analogy. The patrician was the highest officer in the Roman empire, from the time of Constantine, and we know how much the Franks themselves, and still more their Gaulish subjects, affected to imitate the style of the imperial court.

* That the offices of count and duke were originally but temporary, may be inferred from several passages in Gregory of Tours; as l. v. c. 37. l. viii. c. 18. But it seems by the laws of the Alemanni, c. 35. that the hereditary succession of their dukes was tolerably established at the beginning of the seventh century, when their code was promulgated. The Bavarians chose their own dukes out of one family, as is declared in their laws; tit. ii. c. 1. and c. 20. (Lindebrog, Codex Legum antiquarum.) This the emperor Henry II. confirms in Ditmar; Nonne scitis, (he says) Bajuarios ab initio ducem eligendi liberam habere potestatem? (Schmidt, Hist. des Allemands, t. ii. p. 404.) Indeed the consent of these German provincial nations, if I may use the expression, seems to have been always required, as in an independent monarchy. Ditmar, a chronicler of the tenth century, says, that Eckard was made duke of Thuringia totius populi consensu. Pfeffel, Abrégé Chronologique, t. i. p. 184. With respect to France properly so called, or the kingdoms of Neustria and Burgundy, it may be less easy to prove the existence of hereditary offices under the Merovingians. But the feebleness of their government makes it probable, that so natural a symptom of disorganization had not failed to ensue. The Helvetian counts appear to have been nearly independent, as early as this period. (Planta's Hist. of the Helvetic Confederacy, chap. i.)

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provinces, and that kingdom became a sort of federal aristocracy.*

Succession to the French monarchy.

The throne of France was always filled by the royal house of Meroveus. However complete we may imagine the elective rights of the Franks, it is clear that a fundamental law restrained them to this family. Such indeed had been the monarchy of their ancestors the Germans; such long continued to be those of Spain, of England, and perhaps of all European nations. The reigning family was immutable; but at every vacancy the heir awaited the confirmation of a popular election, whether that were a substantial privilege, or a mere ceremony. Exceptions, however, to the lineal succession are rare in the history of any country, unless where an infant heir was thought unfit to rule a nation of freemen. But in fact it is vain to expect a system of constitutional laws rigidly observed in ages of anarchy and ignorance. Those antiquaries who have maintained the most opposite theories upon such points are seldom in want of particular instances to support their respective conclusions.†

Limited authority of Clovis—

Clovis was a leader of barbarians, who respected his valour, and the rank which they had given

* Giannone, l. iv.

† Hottoman (Franco-Gallia, c. vi.) and Boulainvilliers (Etat de la France) seem to consider the crown as absolutely elective. The Abbé Vertot (Mémoires de l'Acad. des Inscriptions, t. iv.) maintains a limited right of election within the reigning family. M. de Foncemagne (t. vi. and viii. of the same collection) asserts a strict hereditary descent. Neither perhaps sufficiently distinguishes acts of violence from those of right, nor observes the changes in the French constitution between Clovis and Childeric III.

him, but were incapable of servile feelings, and jealous of their common as well as individual rights. In order to appreciate the power which he possessed, we have only to look at the well-known story of the vase of Soissons. When the plunder taken in Clovis's invasion of Gaul was set out in this place for distribution, he begged for himself a precious vessel, belonging to the church of Rheims. The army having expressed their willingness to consent: "You shall have nothing here, exclaimed a soldier, striking it with his battle-axe, but what falls to your share by lot." Clovis took the vessel, without marking any resentment; but found an opportunity, next year, of revenging himself by the death of the soldier. It is impossible to resist the inference which is supplied by this story. The whole behaviour of Clovis is that of a barbarian chief, not daring to withdraw any thing from the rapacity, or to chastise the rudeness of his followers.

Vase of Soissons.

But if such was the liberty of the Franks, when they first became conquerors of Gaul, we have good reason to believe, that they did not long preserve it. A people not very numerous spread over the spacious provinces of Gaul, wherever lands were assigned to, or seized by them.* It became a burden to attend those general assem-

Power of the kings increases.

* Du Bos, Hist. Critique, t. ii. p. 301. maintains that Clovis had not more than 3000 or 4000 Franks in his army, for which he produces some, though not very ancient, authorities. The smallness of the number of Salians may account for our finding no mention of the partitions made in their favour. See, however, Du Bos, t. iii. p. 466.

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blies of the nation, which were annually convened in the month of March, to deliberate upon public business, as well as to exhibit a muster of military strength. After some time, it appears that these meetings drew together only the bishops, and those invested with civil offices.* The ancient inhabitants of Gaul, having little notion of political liberty, were unlikely to resist the most tyrannical conduct. Many of them became officers of state, and advisers of the sovereign, whose ingenuity might teach maxims of despotism unknown in the forests of Germany. We shall scarcely wrong the bishops by suspecting them of more pliable courtliness than was natural to the long-haired warriors of Clovis.† Yet it is probable, that some of the Franks were themselves instrumental in this change of their government. The court of the Merovingian kings was crowded with followers, who have been plausibly derived from those of the German chiefs described by Tacitus; men, forming a distinct and elevated class in the state, and known by the titles of Fideles, Leudes, and Antrustiones. They took an oath of fidelity to the king, upon their admission into that rank, and were commonly remunerated with gifts of land. Under different appellations we find, as some antiquaries think, this class of courtiers in the early

* Du Bos, t. iii. p. 327. Mably, Observ. sur l'Histoire de France, l. i. c. 3.

† Gregory of Tours, throughout his history, talks of the royal power in the tone of Louis XIV.'s court. If we were obliged to believe all we read, even the vase of Soissons would bear witness to the obedience of the Franks.

records of Lombardy and England. The general name of Vassals (from *Gwas*, a Celtic word for a servant) is applied to them in every country.* By the assistance of these faithful supporters, it has been thought, that the regal authority of Clovis's successors was insured.† However this may be, the annals of his more immediate descendants exhibit a course of oppression, not merely displayed, as will often happen among uncivilized people, though free, in acts of private injustice, but in such general tyranny as is incompatible with the existence of any real checks upon the sovereign.‡

* The Gasindi of Italy, and the Anglo-Saxon royal Thane appear to correspond, more or less, to the Anstrustions of France. The word Thane, however, was used in a very extensive sense, and comprehended all free proprietors of land. That of *Leudes* seems to imply only subjection, and is frequently applied to the whole body of a nation, as well as, in a stricter sense, to the king's personal vassals. This name they did not acquire, originally, by possessing benefices; but rather, by being vassals, or servants, became the object of beneficiary donations. In one of Marculfus's precedents, l. i. f. 18. we have the form by which an Anstrustion was created. See Du Cange under these several words, and Muratori's thirteenth dissertation on Italian Antiquities. The Gardingi sometimes mentioned in the laws of the Visigoths do not appear to be of the same description.

† Boantus * * * * vallatus in domo suâ, ab hominibus regis interfectus est. Greg. Tur. l. viii. c. 11. A few spirited retainers were sufficient to execute the mandates of arbitrary power among a barbarous, disunited people.

‡ The proofs of this may be found in almost every page of Gregory: among other places, see l. iv. c. 1.; l. vi. c. 29.; l. ix. c. 30. In all edicts proceeding from the first kings, they are careful to express the consent of their subjects. Clovis's language runs—Populus noster petit. His son Childebert expresses himself: unà cum nostris optimatibus pertractavimus—convenit unà cum leudis nostris. But in the famous treaty of Andely, A.D. 587, no national assent seems to have been asked or given to its provisions, which were very important. And an edict of one of the Clotaires (it is uncertain whether the first or second of that name, though Montesquieu has given good reasons for the latter) assumes a more magisterial tone, without any mention of the Leudes.

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Degeneracy of the royal family. Mayors of the palace.

But before the middle of the seventh century the kings of this line had fallen into that contemptible state, which has been described in the last chapter. The mayors of the palace, who, from mere officers of the court, had now become masters of the kingdom, were elected by the Franks, not indeed the whole body of that nation, but the provincial governors, and considerable proprietors of land.* Some inequality there probably existed from the beginning in the partition of estates, and this had been greatly increased by the common changes of property, by the rapine of those savage times, and by royal munificence. Thus arose that landed aristocracy, which became the most striking feature in the political system of Europe during many centuries, and is in fact its great distinction, both from the

* The revolution which ruined Brunehaut was brought about by the defection of her chief nobles, especially Warnachar, mayor of Austrasia. Upon Clotaire II.'s victory over her, he was compelled to reward these adherents at the expense of the monarchy. Warnachar was made Mayor of Burgundy, with an oath from the king never to dispossess him. (Fredegarius, c. 42.) In 626, the nobility of Burgundy declined to elect a mayor, which seems to have been considered as their right. From this time, nothing was done without the consent of the aristocracy. Unless we ascribe all to the different ways of thinking in Gregory and Fredegarius, the one a Roman bishop, the other a Frank, or Burgundian, the government was altogether changed.

It might even be surmised, that the crown was considered as more elective than before. The author of Gesta Regum Francorum, an old chronicler who lived in those times, changes his form of expressing a king's accession from that of Clotaire II. Of the earlier kings he says only, regnum recepit. But of Clotaire, Franci quoque prædictum Clotairium regem parvulum supra se in regnum statuerunt. Again, of the accession of Dagobert I.: Austrasii Franci superiores congregati in unum, Dagobertum supra se in regnum statuunt. In another place, Decedente præfato rege Clodoveo, Franci Clotairium seniorem puerum ex tribus sibi regem statuerunt. Several other instances might be quoted.

despotism of Asia, and the equality of republican governments.

Nobility.

There has been some dispute about the origin of nobility in France, which might perhaps be settled, or at least better understood, by fixing our conception of the term. In our modern acceptation, it is usually taken to imply certain distinctive privileges in the political order, inherent in the blood of the possessor, and consequently not transferible like those which property confers. Limited to this sense, nobility, I conceive, was unknown to the conquerors of Gaul till long after the downfall of the Roman empire. They felt, no doubt, the common prejudice of mankind in favour of those whose ancestry is conspicuous, when compared with persons of obscure birth. This is the primary meaning of nobility, and perfectly distinguishable from the possession of exclusive civil rights. Those who are acquainted with the constitution of the Roman republic, will recollect an instance of the difference between these two species of hereditary distinction, in the *patricii* and the *nobiles*. Though I do not think that the tribes of German origin paid so much regard to genealogy as some Scandinavian and Celtic nations; (else the beginnings of the greatest houses would not have been so enveloped in doubt as we find them;) there are abundant traces of the respect in which families of known antiquity were held among them.*

* The antiquity of French nobility is maintained temperately by Schmidt, Hist. des Allemands, t. i. p. 361. and with acrimony by

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But the essential distinction of ranks in France, perhaps also in Spain and Lombardy, was founded upon the possession of land, or upon civil employment. The aristocracy of wealth preceded that of birth, which indeed is still chiefly dependent upon the other for its importance. A Frank of large estáte was styled a noble; if he wasted or was despoiled of his wealth, his descendants fell into the mass of the people, and the new possessor became noble in his stead. In these early ages, property did not very frequently change hands, and desert the families who had long possessed it. They were noble by descent, therefore, because they were rich by the same means. Wealth gave them power, and power gave them pre-eminence. But no distinction was made by the Salic or Lombard codes in the composition for homicide, the great test of political station, except in favour of the king's vassals. It seems, however, by some of the barbaric codes, those namely of the Burgundians, Visigoths, Saxons, and the English colony of the latter nation,* that the free men

Montesquieu, Esprit des Loix, l. xxx. c. 25. Neither of them proves any more than I have admitted. The expression of Ludovicus Pius to his freedman; Rex fecit te liberum, non nobilem; quod impossibile est post libertatem, is very intelligible, without imagining a privileged class. Of the practical regard paid to birth, indeed, there are many proofs. It seems to have been a recommendation in the choice of bishops. (Marculfi Formulæ, l. i. c. 4. cum notis Bignonii, in Baluzii Capitularibus.) It was probably much considered in conferring dignities. Fredegarius says of Protadius, mayor of the palace to Brunehaut, Quoscunque genere nobiles reperiebat, totos humiliare conabatur, ut nullus reperiretur, qui gradum, quem arripuerat, potuisset assumere.

* Leg. Burgund. tit. 26. Leg. Visigoth. l. ii. t. 2. c. 4. (in Linde-

were ranged by them into two or three classes, and a difference made in the price at which their lives were valued: so that there certainly existed the elements of aristocratic privileges, if we cannot in strictness admit their completion at so early a period. The Antrustions of the kings of the Franks were also noble, and a composition was paid for their murder, treble of that for an ordinary citizen; but this was a personal, not an hereditary distinction. A link was wanting to connect their eminent privileges with their posterity; and this link was to be supplied by hereditary benefices.

Fiscal lands.

Besides the lands distributed among the nation, others were reserved to the crown, partly for the support of its dignity, and partly for the exercise of its munificence. These were called fiscal lands; they were dispersed over different parts of the kingdom, and formed the most regular source of revenue.* But the greater portion of them were granted out to favoured subjects, under the name of benefices, the nature of which is one of the most important points in the policy of these ages. Benefices were, it is probable, most fre-

Benefices.

brog). Du Cange, voc. Adalingus, Nobilis. Wilkins, Leg. Angl. Sax. passim. I think it cannot be denied, that nobility, founded either upon birth or property, and distinguished from mere personal freedom, entered into the Anglo-Saxon system. Thus the *eorl* and *ceorl* are opposed to each other, like the noble and roturier in France.

* The demesne lands of the crown are continually mentioned in the early writers; the kings, in journeying to different parts of their dominions, took up their abode in them. Charlemagne is very full in his directions as to their management. Capitularia, A.D. 797, et alibi.

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quently bestowed upon the professed courtiers, the Antrustiones or Leudes, and upon the provincial governors. It by no means appears, that any conditions of military service were expressly annexed to these grants: but it may justly be presumed that such favours were not conferred without an expectation of some return; and we read both in law and history, that beneficiary tenants were more closely connected with the crown than mere alodial proprietors. Whoever possessed a benefice was bound to serve his sovereign in the field. But of alodial proprietors only the owner of three mansi was called upon for personal service. Where there were three possessors of single mansi, one went to the army, and the others contributed to his equipment.* Such at least were the regulations of Charlemagne, whom I cannot believe, with Mably, to have relaxed the obligations of military attendance. After the peace of Coblentz, in 860, Charles the Bald restored all alodial property belonging to his subjects, who had taken part against him, but not his own beneficiary grants, which they were considered as having forfeited.

Their extent.

Most of those who have written upon the feudal system, lay it down that benefices were originally precarious, and revoked at pleasure by the sove-

* Capitul. Car. Mag. ann. 807 and 812. I cannot define the precise area of a mansus. It consisted, according to Du Cange, of twelve jugera; but what he meant by a juger I know not. The ancient Roman juger was about five-eighths of an acre; the Parisian arpent was a fourth more than one. This would make a difference as two to one.

reign; that they were afterwards granted for life; and at a subsequent period became hereditary. No satisfactory proof, however, appears to have been brought of the first stage in this progress.*

* The position which I have taken upon me to controvert, is laid down in almost every writer on the feudal system. Besides Sir James Craig, Spelman, and other older authors, Houard, in his Anciennes Loix des François, t. i. p. 5. and the editors of the Benedictine collection, t. xi. p. 163. take the same point for granted. Mably, Observations sur l'Histoire de France, l. i. c. 3. calls it, une vérité que M. de Montesquieu a très bien prouvée. And Robertson affirms with unusual positiveness: "These beneficēs were granted originally only during pleasure. No circumstance relating to the customs of the middle ages is better ascertained than this; and innumerable proofs of it might be added to those produced in L'Esprit des Loix, and by Du Cange." Hist. Charles V. vol. i. not. 8.

These testimonies, which Robertson has not chosen to bring forward, we cannot conjecture; nor is it easy to comprehend by what felicity he has discovered, in the penury of historical records during the sixth and seventh centuries, innumerable proofs of an usage which, by the confession of all, did not exist at any later period. But as the authorities quoted by Montesquieu have appeared conclusive both to Mably and Robertson, it may be proper to examine them separately. The following is the passage in the L'Esprit des Loix, on which they rely.

On ne peut pas douter que d'abord les fiefs ne fussent amovibles. On voit, dans Grégoire de Tours, que l'on ôte à Sunégisile et à Galloman tout ce qu'ils tenoient du fisc, et qu'on ne leur laisse que ce qu'ils avoient en propriété. Gontran, élevant au trône son neveu Childebert, eut une conférence secrette avec lui, et lui indiqua ceux à qui il devoit donner des fiefs, et ceux à qui il devoit les ôter. Dans une formule de Marculfe, le roi donne en échange, non seulement des bénéfices que son fisc tenoit, mais encore ceux qu'un autre avoit tenus. La loi des Lombards oppose les bénéfices à la propriété. Les historiens, les formules, les codes des différens peuples barbares, tous les monumens qui nous restent, sont unanimes. Enfin, ceux qui ont écrit le Livre des Fiefs, nous apprennent que d'abord les seigneurs purent les ôter à leur volonté, qu'ensuite ils les assurèrent pour un an, et après les donnèrent pour toujours. l. xxx. c. 16.

The first of Montesquieu's authorities is from Gregory of Tours. l. ix. c. 38. Sunegisilus and Gallomagnus, two courtiers of Childebert, having been accused of a treasonable conspiracy, fled to sanctuary, and refused to stand their trial. Their beneficiary lands were upon this very justly taken away by a judicial sentence. What argument can be drawn from a case of forfeiture for treason or outlawry, that benefices were granted only during pleasure? 2. Gontran is said by Gregory to have advised his nephew Childebert, quos honoraret muneribus, quos ab honore

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At least, I am not convinced, that beneficiary grants were ever considered as resumable at pleasure, unless where some delinquency could be im-

depelleret. l. vii. 33. But *honor* is more commonly used in the earliest writers for an office of dignity, than for a landed estate; and even were the word to bear in this place the latter meaning, we could not fairly depend on an authority, drawn from times of peculiar tyranny and civil convulsion. I am not contending that men were secure in their beneficiary, since they certainly were not so in their alodial estates: the sole question is, as to the right they were supposed to possess in respect of them. 3. In the precedent of Marculfus, quoted by Montesquieu, the king is supposed to grant lands which some other person had lately held. But this is meant as a designation of the premises, and would be perfectly applicable, though the late possessor were dead. 4. It is certainly true, that the Lombard laws, (that is, laws enacted by the successors of Charlemagne in Lombardy,) and the general tenor of ancient records, with a few exceptions, oppose benefices to propriety: but it does not follow that the former were revocable at pleasure. This opposition of alodial to feudal estates subsists at present, though the tenure of the latter is any thing rather than precarious. 5. As to the Libri Feudorum, which are a compilation by some Milanese lawyers in the twelfth century, they cannot be deemed of much authority for the earlier history of the feudal system in France. There is certainly reason to think, that even in the eleventh century, the tenure of fiefs in some parts of Lombardy was rather precarious; but whether this were by any other law than that of the stronger, it would be hard to determine.

Du Cange, to whom Robertson also refers, gives this definition of a benefice: prædium fiscale, quod a rege vel principe, vel ab alio quolibet *ad vitam* viro nobili utendum conceditur. In a subsequent place, indeed, he says: nec tantum erant ad vitam, sed pro libitu auferebantur. For this he only cites a letter of the bishops to Louis the Debonair: Ecclesiæ nobis a Deo commissæ non talia sunt beneficia, et hujusmodi regis proprietas, ut pro libitu suo inconsultè illas possit dare, aut auferre. But how slight a foundation does this afford for the inference, that lay-benefices were actually liable to be resumed at pleasure! Suppose even this to be a necessary implication in the argument of those bishops, is it certain that they stated the law of their country with accuracy? Do we not find greater errors than this every day in men's speech and writings, relative to points with which they are not immediately concerned? In fact, there is no manner of doubt, that benefices were granted not only for life, but as inheritances, in the reign of Louis. In the next sentence Du Cange adds a qualification, which puts an end to the controversy, so far as his authority is concerned; Non temere tamen, *nec sine legali judicio* auferebantur. That those two sentences contradict each other is manifest; the latter, in my opinion, is the more correct position.

puted to the vassal. It is possible, though I am not aware of any documents which prove it, that benefices may, in some instances, have been granted for a term of years, since even fiefs, in much later times, were occasionally of no greater extent. Their ordinary duration, however, was at least the life of the possessor, after which they reverted to the fisc.* Nor can I agree with those, who deny the existence of hereditary benefices under the first race of French kings. The codes of the Burgundians, and of the Visigoths, which advert to them, are, by analogy, witnesses to the contrary.† The precedents given in the forms of Marculfus (about 660) for the grant of a benefice, contain very full terms, extending it to the heirs of the beneficiary.‡ And Mably has plausibly inferred the perpetuity of benefices, at least in some instances, from the language of the treaty at Andely in 587, and of an edict of Clotaire II. some years later.§ We

* The following passage from Gregory of Tours seems to prove, that although sons were occasionally permitted to succeed their fathers, an indulgence which easily grew up into a right, the crown had, in his time, an unquestionable reversion after the death of its original beneficiary. Hoc tempore et Wandelinus, nutritor Childeberti regis, obiit; sed in locum ejus nullus est subrogatus, eo quod regina mater curam velit propriam habere de filio. *Quæcunque de fisco meruit, fisci juribus sunt relata.* Obiit his diebus Bodegesilus dux plenus dierum; sed nihil de facultate ejus filiis minutum est. l. viii. c. 22. Gregory's work, however, does not go farther than 595.

† Leges Burgundionum, tit. i. Leges Wisigoth. l. v. tit. 2.

‡ Marculf. form. xii. and xiv. l. i. This precedent was in use down to the eleventh century; its expressions recur in almost every charter. The earliest instance I have seen of an actual grant to a private person, is of Charlemagne to one John, in 795. Baluzii Capitularia, t. ii. p. 1400.

§ Quicquid antefati reges ecclesiis aut fidelibus suis contulerunt, aut adhuc conferre cum justitiâ Deo propitiante voluerint, stabiliter conservetur; et quicquid uni-

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can hardly doubt at least that children would put in a very strong claim to what their father had enjoyed; and the weakness of the crown in the seventh century must have rendered it difficult to reclaim its property.

Sub-infeudation.

A natural consequence of hereditary benefices was that those who possessed them carved out portions to be held of themselves by a similar tenure. Abundant proofs of this custom, best known by the name of sub-infeudation, occur even in the capitularies of Pepin and Charlemagne. At a later period it became universal; and what had begun perhaps through ambition or pride was at last dictated by necessity. In that dissolution of all law which ensued after the death of Charlemagne, the powerful leaders, constantly engaged in domestic warfare, placed their chief dependence upon men whom they attached by gratitude, and bound by strong conditions. The oath of fidelity which they had taken, the homage which they had paid to the sovereign, they exacted from their own vassals. To render military service became the essential obligation which the tenant of a benefice under-

cuique fidelium in utriusque regno per legem et justitiam redhibetur, nullum ei præjudicium ponatur, sed liceat res debitas possidere atque recipere. Et si aliquid unicuique per interregna sine culpâ sublatum est, audientiâ habitâ restauretur. Et de eo quod per munificentias præcedentium regum unusquisque usque ad transitum gloriosæ memoriæ domini Chlotl acharii regis possedit, cum securitate possideat; et quod exinde fidelibus personis ablatum est, de præsenti recipiat. Fœdus Andeliacum, in Gregor. Turon. l. ix. c. 20.

Quæcunque ecclesiæ vel clericis vel quibuslibet personis a gloriosæ memoriæ præfatis principibus munificentiæ largitate collatæ sunt, omni firmitate perdurent. Edict. Chlotachar. I. vel potius II. in Recueil des Historiens, t. iv. p. 116.

took; and out of those ancient grants, now become for the most part hereditary, there grew up in the tenth century, both in name and reality, the system of feudal tenures.*

Usurpation of provincial governors.

This revolution was accompanied by another still more important. The provincial governors, the dukes and counts, to whom we may add the marquisses or margraves, intrusted with the custody of the frontiers, had taken the lead in all public measures after the decline of the Merovingian kings. Charlemagne, duly jealous of their ascendancy, checked it by suffering the duchies to expire without renewal, by granting very few counties hereditarily, by removing the administration of justice from the hands of the counts into those of his own itinerant judges, and, if we are not deceived in his policy, by elevating the ecclesiastical order as a counterpoise to that of the nobility. Even in his time, the faults of the counts are the constant theme of the capitularies; their dissipation and neglect of duty, their oppression of the poorer proprietors, and their artful attempts to appropriate the crown lands situated within their territory.† If Charlemagne was un-

* Somner says, that he has not found the word feudum anterior to the year 1000; and Muratori, a still greater authority, doubts whether it was used so early. I have however observed the words feum and fevum, which are manifestly corruptions of feudum, in several charters about 960. Vaissette, Hist. de Languedoc, t. ii. Appendix, p. 107. 128. et alibi. Some of these fiefs appear not to have been hereditary. But, independently of positive instances, can it be doubted that some word of barbarous original must have answered, in the vernacular languages, to the Latin beneficium? See Du Cange v. Feudum.

† Capitularia Car. Mag. et Lud. Pii. passim. Schmidt. Hist. des Allemands, t. ii. p. 158. Gaillard, Vie de Charlem. t. iii. p. 118.

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able to redress those evils, how much must they have increased under his posterity! That great prince seldom gave more than one county to the same person; and as they were generally of moderate size, co-extensive with episcopal dioceses, there was less danger, if this policy had been followed, of their becoming independent.* But Louis the Debonair, and, in a still greater degree, Charles the Bald, allowed several counties to be enjoyed by the same person. The possessors constantly aimed at acquiring private estates within the limits of their charge, and thus both rendered themselves formidable, and assumed a kind of patrimonial right to their dignities. By a capitulary of Charles the Bald, A.D. 877, the succession of a son to the father's county appears to be recognized as a known usage.† In the next century there followed an entire prostration of the royal authority, and the counts usurped their governments as little sovereignties, with the domains and all regalian rights, subject only to the feudal superiority of the king.‡ They now added the name of the county to their own, and their wives took the appellation of countess.§ In Italy, the

* Vaissette, Hist. de Languedoc, t. i. p. 587. 700. and not. 87.

† Baluzii Capitularia, t. ii. p. 263 and 269. This is a questionable point, and most French antiquaries consider this famous capitulary as the foundation of an hereditary right in counties. I am inclined to think, that there was at least a practice of succession, which is implied and guaranteed by this provision.

‡ It appears, by the record of a process in 918, that the counts of Toulouse had already so far usurped the rights of their sovereign, as to claim an estate, on the ground of its being a royal benefice. Hist. de Languedoc, t. ii. Appen. p. 56.

§ Vaissette, Hist. de Languedoc, t. i. p. 588, and infrà. t. ii. p. 38. 109. and Appendix, p. 56.

independence of the dukes was still more complete; and although Otho the Great and his descendants kept a stricter rein over those of Germany, yet we find the great fiefs of their empire throughout the tenth century, granted almost invariably to the male and even female heirs of the last possessor.

Change of alodial into feudal tenures.

Meanwhile, the alodial proprietors, who had hitherto formed the strength of the state, fell into a much worse condition. They were exposed to the rapacity of the counts, who, whether as magistrates and governors, or as overbearing lords, had it always in their power to harrass them. Every district was exposed to continual hostilities; sometimes from a foreign enemy, more often from the owners of castles and fastnesses, which in the tenth century, under pretence of resisting the Normans and Hungarians, served the purposes of private war. Against such a system of rapine, the military compact of lord and vassal was the only effectual shield; its essence was the reciprocity of service and protection. But an insulated alodialist had no support: his fortunes were strangely changed, since he claimed, at least in right, a share in the legislation of his country, and could compare with pride his patrimonial fields with the temporary benefices of the crown. Without law to redress his injuries, without the royal power to support his right, he had no course left, but to compromise with oppression, and subject himself, in return for protection, to a feudal lord. During the tenth and eleventh centuries it appears

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that alodial lands in France had chiefly become feudal: that is, they had been surrendered by their proprietors, and received back again upon the feudal conditions; or more frequently, perhaps, the owner had been compelled to acknowledge himself the *man* or vassal of a suzerain, and thus to confess an original grant which had never existed.* Changes of the same nature, though not perhaps so extensive, or so distinctly to be traced, took place in Italy and Germany. Yet it would be inaccurate to assert, that the prevalence of the feudal system has been unlimited; in a great part of France, alodial tenures always subsisted; and many estates in the empire were of the same description.†

* Hist. de Languedoc, t. ii. p. 109. It must be confessed, that there do not occur so many specific instances of this conversion of alodial tenure into feudal, as might be expected, in order to warrant the supposition in the text. Several records however are quoted by Robertson, Hist. Charles V. note 8; and others may be found in diplomatic collections. A precedent for surrendering alodial property to the king, and receiving it back as his benefice, appears even in Marculfus, l. i. form 13. The county of Cominges, between the Pyrenees, Toulouse, and Bigorre, was alodial till 1244, when it was put under the feudal protection of the count of Toulouse. It devolved by escheat to the crown in 1443. Villaret, t. xv. p. 346.

In many early charters, the king confirms the possession even of alodial property, for greater security in lawless times; and, on the other hand, in those of the tenth and eleventh centuries, the word alodium is continually used for a feud, or hereditary benefice, which renders this subject still more obscure.

† The maxim, Nulle terre sans seigneur, was so far from being universally received in France, that in almost all southern provinces, or pays du droit écrit, lands were presumed to be alodial, unless the contrary was shewn, or, as it was called, franc-aleux sans titre. The parliaments however seem latterly to have inclined against this presumption, and have thrown the burthen of proof on the party claiming alodiality. For this see Denisart, Dictionnaire des Décisions, art. Franc-aleu. And the famous maxim of the Chancellor Duprat, nulle terre sans seigneur, was true, as I learn from the dictionary of Houard, with respect to jurisdic-

Custom of personal commendation.

There are, however, vestiges of a very universal custom distinguishable from the feudal tenure of land, though so analogous to it, that it seems to have nearly escaped the notice of antiquaries. From this silence of other writers, and the great obscurity of the subject, I am almost afraid to notice what several passages in ancient laws and instruments concur to prove, that, besides the relation established between lord and vassal by beneficiary grants, there was another species more personal and more closely resembling that of patron and client in the Roman republic. This was usually called *commendation;* and appears to have been founded on two very general principles, both of which the distracted state of society inculcated. The weak needed the protection of the powerful; and the government needed some security for public order. Even before the invasion of the Franks, Salvian, a writer of the fifth century, mentions the custom of obtaining the protection of the great by money, and blames their rapacity, though he allows the natural reasonableness of the practice.* The disadvantageous condition of the less powerful freemen, which ended in the servitude of one part, and in the feudal vassalage of another, led such, as fortunately still preserved

tion, though false as to tenure; alodial lands insulated (enclavés) within the fief of a lord, being subject to his territorial justice. Diction. de Houard, art. Aleu.

In Germany, according to Du Cange, voc. Baro, there is a distinction between Barones, and Semper-Barones; the latter holding their lands alodially.

*. Du Cange, v. Salvamentum.

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their alodial property, to insure its defence by a stipulated payment of money. Such payments, called Salvamenta, may be traced in extant charters, chiefly indeed of monasteries.* In the case of private persons, it may be presumed that this voluntary contract was frequently changed by the stronger party into a perfect feudal dependence. From this, however, as I imagine, it properly differed in being capable of dissolution at the inferior's pleasure without incurring a forfeiture, as well as in having no relation to land. Homage, however, seems to have been incident to commendation, as well as to vassalage. Military service was sometimes the condition of this engagement. It was the law of France, so late at least as the commencement of the third race of kings, that no man could take a part in private wars, except in defence of his own lord. This we learn from an historian about the end of the tenth century, who relates that one Erminfrid, having been released from his homage to Count Burchard, on ceding the fief he had held of him to a monastery, renewed the ceremony on a war breaking out between Burchard and another nobleman, wherein he was desirous to give assistance; since, the author observes, it is not, nor has been the practice in France, for any man to be concerned in war, except in the presence, or by the command of his lord.† Indeed there is reason to infer, from

* Du Cange, v. Salvamentum.

† Recueil des Historiens, t. x. p. 355.

the Capitularies of Charles the Bald, that every man was bound to attach himself to some lord, though it was the privilege of a freeman to choose his own superior.* And this is strongly supported by the analogy of our Anglo-Saxon laws, where it is frequently repeated, that no man should continue without a lord. There are too, as it seems to me, a great number of passages in Domesday-book, which confirm this distinction between personal commendation and the beneficiary tenure of land. Perhaps I may be thought to dwell too prolixly on this obscure custom; but as it tends to illustrate those mutual relations of lord and vassal, which supplied the place of regular government in the polity of Europe, and has seldom or never been explicitly noticed, its introduction seemed not improper.

* Unusquisque liber homo, post mortem domini sui, licentiam habeat se commendandi inter hæc tria regna ad quemcunque voluerit. Similiter et ille qui nondum alicui commendatus est. Baluzii Capitularia, t. i. p. 443. A. D. 806. Volumus etiam ut unusquisque liber homo in nostro regno seniorem qualem voluerit in nobis et in nostris fidelibus recipiat. Capit. Car. Calvi. A. D. 877. Et volumus ut cujuscunque nostrum homo, in cujuscunque regno sit, cum seniore suo in hostem, vel, aliis suis utilitatibus pergat. Ibid. See too Baluze, t. i. p. 536, 537.

By the Establishments of St. Louis, c. 87. every stranger coming to settle within a barony was to acknowledge the baron as lord within a year and a day, or pay a fine. In some places, he even became the serf or villein of the lord. Ordonnances des Rois, p. 187. Upon this jealousy of unknown settlers, which pervades the policy of the middle ages, was founded the droit d'aubaine, or right to their moveables after their decease. See preface to Ordonnances des Rois, t. i. p. 15.

The article Commendatio in Du Cange's Glossary furnishes some hints upon this subject, which however that author does not seem to have fully apprehended. Carpentier, in his Supplement to the Glossary, under the word Vassaticum, gives the clearest notice of it that I have any where found. Since writing the above note, I have found the subject touched by M. de Montlosier, Hist. de la Monarchie Française, t. i. p. 854.

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Edict of Conrad the Salic.

It has been sometimes said that feuds were first rendered hereditary in Germany, by Conrad II. sirnamed the Salic. This opinion is perhaps erroneous. But there is a famous edict of that emperor at Milan, in the year 1037, which, though immediately relating only to Lombardy, marks the full maturity of the system, and the last stage of its progress.* I have remarked already the custom of sub-infeudation, or grants of lands by vassals to be held of themselves, which had grown up with the growth of these tenures. There had occurred, however, some disagreement for want of settled usage, between these inferior vassals and their immediate lords, which this edict was expressly designed to remove. Four regulations of great importance are established therein; that no man should be deprived of his fief, whether held of the emperor, or a mesne lord, but by the laws of the empire, and the judgment of his peers;† that from such judgment an immediate vassal might appeal to his sovereign; that fiefs should be inherited by sons and their children; or in their failure, by brothers, provided they were *feuda paterna*, such as had descended from the

* Spelman tells us, in his Treatise of Feuds, chap. ii. that Conradus Salicus, *a French emperor, but of German descent* [what can this mean?] went to Rome about 915 to fetch his crown from Pope John X. when, according to him, the succession of a son to his father's fief was first conceded. An almost unparallelled blunder in so learned a writer! Conrad the Salic was elected at Worms in 1024, crowned at Rome by John XIX. in 1027, and made this edict at Milan in 1037.

† Nisi secundùm constitutionem antecessorum nostrorum, et judicium parium suorum; the very expressions of Magna Charta.

father;* and that the lord should not alienate the fief of his vassal without his consent.†

Such was the progress of these feudal tenures, which determined the political character of every European monarchy where they prevailed, as well as formed the foundation of its jurisprudence. It is certainly inaccurate to refer this system, as is frequently done, to the destruction of the Roman empire by the northern nations, though in the beneficiary grants of those conquerors we trace its beginning. Five centuries, however, elapsed, before the alodial tenures, which had been incomparably the more general, gave way, and before the reciprocal contract of the feud attained its maturity. It is now time to describe the legal qualities and effects of this relation, so far only as may be requisite to understand its influence upon the political system.

Principles of a feudal relation.

The essential principle of a fief was a mutual contract of support and fidelity. Whatever obligations it laid upon the vassal of service to his lord, corresponding duties of protection were im-

* "Gerardus noteth," says Sir H. Spelman, "that this law settled not the feud upon the eldest son, or any other son of the feudatary particularly; but left it in the lord's election to please himself with which he would." But the phrase of the edict runs, filios ejus beneficium tenere: which, when nothing more is said, can only mean a partition among the sons.

† The last provision may seem strange, at so advanced a period of the system; yet, according to Giannone, feuds were still revocable by the lord in some parts of Lombardy. Istoria di Napoli, l. xiii. c. 3. It seems, however, no more than had been already enacted by the first clause of this edict. Another interpretation is possible; namely, that the lord should not alienate his own seigniory without his vassals' consent, which was agreeable to the feudal tenures. This indeed would be putting rather a forced construction on the words, ne domino feudum militis alienare liceat.

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posed by it on the lord towards his vassal.* If these were transgressed on either side, the one forfeited his land, the other his seigniory or rights over it. Nor were motives of interest left alone to operate in securing the feudal connexion. The associations founded upon ancient custom and friendly attachment, the impulses of gratitude and honour, the dread of infamy, the sanctions of religion, were all employed to strengthen these ties, and to render them equally powerful with the relations of nature, and far more so than those of political society. It is a question agitated among the feudal lawyers, whether a vassal is bound to follow the standard of his lord against his own kindred.† It was one more important, whether he must do so against the king. In the works of those who wrote when the feudal system was declining, or who were anxious to maintain the royal authority, this is commonly decided in the negative. Littleton gives a form of homage, with a reservation of the allegiance due to the sovereign;‡ and the same prevailed in Normandy and some other countries.§ A law of Frederic Barbarossa enjoins,

* Crag. Jus Feudale, l. ii. tit. 11. Beaumanoir, Coutumes de Beauvoisis, c. lxi. p. 311. Ass. de Jérus. c. 217. Lib. Feud. l. ii. tit. 26. 47.

Upon the mutual obligation of the lord towards his vassal, seems to be founded the law of warranty, which compelled him to make indemnification where the tenant was evicted of his land. This obligation, however unreasonable it may appear to us, extended, according to the feudal lawyers, to cases of mere donation. Crag. l. ii. tit. 4. Butler's Notes on Co. Litt. p. 365.

† Crag. l. ii. tit. 4.

‡ Sect. lxxxv.

§ Houard, Anc. Loix des François, p. 114. See too an instance of this reservation in Recueil des Historiens, t. xi. 447.

that in every oath of fealty to an inferior lord, the vassal's duty to the emperor should be expressly reserved. But it was not so during the height of the feudal system in France. The vassals of Henry II. and Richard I. never hesitated to adhere to them against the sovereign, nor do they appear to have incurred any blame on that account. Even so late as the age of St. Louis, it is laid down in his establishments, that if justice is refused by the king to one of his vassals, he might summon his own tenants, under penalty of forfeiting their fiefs, to assist him in obtaining redress by arms.* The count of Britany, Pierre de Dreux, had practically asserted this feudal right during the minority of St. Louis. In a public instrument, he announced to the world, that having met with repeated injuries from the regent, and denial of justice, he had let the king know, that he no longer considered himself as his vassal, but renounced his homage and defied him.†

* Si le Sire dit a son homme lige; Venez vous en avec moi, je veux guerroyer mon Seigneur, qui me denie le jugement de sa cour, le vassal doit repondre; j'irai scavoir, s'il est ainsi que vous me dites. Alors il doit aler trouver le supérieur, et luy dire: Sire, le gentilhomme de qui je tiens mon fief, se plaint que vous lui refusez justice; je viens pour en scavoir la verité; car je suis semoncé de marcher en guerre contre vous. Si la reponse est que volontiers il fera droit en sa cour, l'homme n'est point obligé de déferer à la requisition du Sire; mais il doit, ou le suivre, ou se resoudre a perdre son fief, si le chef Seigneur persiste dans son refus. Etablissemens de St. Louis, c. 49. I have copied this from Velly, t. vi. p. 213. who has modernized the orthography, which is almost unintelligible in the Ordonnances des Rois. One MS. gives the reading *Roi* instead of *Seigneur*. And the law certainly applies to the king *exclusively*; for in case of denial of justice by a mesne lord there was an appeal to the king's court, but from his injury there could be no appeal but to the sword.

† Du Cange, Observations sur Joinville, in Collection des Mémoires, t. i. p. 196. It was always necessary for a vassal to renounce

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Ceremonies of 1. Homage.

The ceremonies used in conferring a fief were principally three: homage, fealty, and investiture. 1. The first was designed as a significant expression of the submission and devotedness of the vassal towards his lord. In performing homage, his head was uncovered, his belt ungirt, his sword and spurs removed; he placed his hands, kneeling, between those of the lord and promised to become his man from thenceforward; to serve him with life and limb and worldly honour, faithfully and loyally, in consideration of the lands which he held under him. None but the lord in person could accept homage, which was commonly concluded by a kiss.* 2. An oath of fealty was indispensable in every fief; but the ceremony was less peculiar than that of homage, and it might be received by proxy. It was taken by ecclesiastics, but not by minors; and in language differed little from the form of homage.† 3. Investiture, or the actual conveyance of feudal lands, was of two

2. Fealty.

3. Investiture.

his homage, before he made war on his lord, if he would avoid the shame and penalty of feudal treason. After a reconciliation, the homage was renewed. And in this no distinction was made between the king and another superior. Thus Henry II. did homage to the king of France in 1188, having renounced his former obligation to him at the commencement of the preceding war. Matt. Paris, p. 126.

* Du Cange, Hominium, and Carpentier's Supplement. id. voc. Littleton, s. 85. Assises de Jérusalem, c. 204. Crag. l. i. tit. 11. Recueil des Historiens, t. ii. préface, p. 174. Homagium per paragium was unaccompained by any feudal obligation, and distinguished from homagium ligeum, which carried with it an obligation of fidelity. The dukes of Normandy rendered only homage per paragium to the kings of France, and received the like from the dukes of Britany. In liege homage, it was usual to make reservations of allegiance to the king or any other lord whom the homager had previously acknowledged.

† Littl. s. 91. Du Cange, voc. Fidelitas.

kinds; proper and improper. The first was an actual putting in possession upon the ground, either by the lord or his deputy; which is called in our law, livery of seisin. The second was symbolical, and consisted in the delivery of a turf, a stone, a wand, a branch, or whatever else might have been made usual by the caprice of local custom. Du Cange enumerates not less than ninety-eight varieties of investitures.*

Obligations of a vassal.

Upon investiture, the duties of the vassal commenced. These it is impossible to define or enumerate; because the services of military tenure, which is chiefly to be considered, were in their nature uncertain, and distinguished as such, from those incident to feuds of an inferior description. It was a breach of faith to divulge the lord's counsel, to conceal from him the machinations of others, to injure his person or fortune, or to violate the sanctity of his roof and the honour of his family.†

* Du Cange, voc. Investitura.

† Assises de Jérusalem, c. 265. Home ne doit à la feme de son seigneur, ne à sa fille requerre vilainie de son cors, ne à sa sœur *tant com elle est demoiselle en son hostel.* I mention this part of feudal duty on account of the light it throws on the statute of treasons, 25 E. III. One of the treasons therein specified is, si omme violast la compaigne le roy, *ou leigné file le roy nient marié*, ou la compaigne leigné fitz et heire le roy. Those who, like Sir E. Coke and the modern lawyers in general, explain this provision by the political danger of confusing the royal blood, do not apprehend its spirit. It would be absurd, upon such grounds, to render the violation of the king's eldest daughter treasonable, so long only as she remains unmarried, when, as is obvious, the danger of a spurious issue inheriting could not arise. I consider this provision therefore as entirely founded upon the feudal principles, which make it a breach of faith (that is, in the primary sense of the word, a treason) to sully the honour of the lord in that of the near relations who were immediately protected by residence in his house. If it is asked, why this should be restricted by the statute to the person of the eldest daughter, I can only answer that

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In battle he was bound to lend his horse to his lord, when dismounted; to adhere to his side, while fighting: and to go into captivity as a hostage for him, when taken. His attendance was due to the lord's courts, sometimes to witness, and sometimes to bear a part in, the administration of justice.*

Limitations of military service.

The measure, however, of military service was generally settled by some usage. Forty days was the usual term, during which the tenant of a knight's fee was bound to be in the field at his own expense.† This was extended by St. Louis to sixty days, except when the charter of infeudation expressed a shorter period. But the length of service diminished with the quantity of land. For

this, which is not more reasonable according to the common political intrepretation, is analogous to many feudal customs in our own and other countries, which attribute a sort of superiority in dignity to the eldest daughter.

It may be objected, that in the reign of Edward III. there was little left of the feudal principle in any part of Europe, and least of all in England. But the statute of treasons is a declaration of the ancient law, and comprehends, undoubtedly, what the judges who drew it could find in records now perished, or in legal traditions of remote antiquity. Similar causes of forfeiture are enumerated in the Libri Feudorum, l. i. tit. 5. and l. ii. tit. 24. In the Establishments of St. Louis, c. 51, 52, it is said, that a lord seducing his vassal's daughter, intrusted to his custody, lost his seigniory; a vassal guilty of the same crime towards the family of his suzerain, forfeited his land. A proof of the tendency which the feudal law had to purify public morals, and to create that sense of indignation and resentment with which we now regard such breaches of honour.

* Assises de Jérusalem, c. 222. A vassal, at least in many places, was bound to reside upon his fief, or not to quit it without the lord's consent. Du Cange, voc. Reseantia, Remanentia. Recueil des Historiens, t. xi. préface, p. 172.

† In the kingdom of Jerusalem, feudal service extended to a year. Assises de Jérusalem, c. 230. It is obvious, that this was founded on the peculiar circumstances of that state. Service of castle-guard, which was common in the north of England, was performed without limitation of time. Lyttleton's Henry II. vol. ii. p. 184.

half a knight's fee but twenty days were due; for an eighth part but five; and when this was commuted for an escuage or pecuniary assessment, the same proportion was observed.* Men turned of sixty, public magistrates, and, of course, women, were free from personal service, but obliged to send their substitutes. A failure in this primary duty incurred perhaps strictly a forfeiture of the fief. But it was usual for the lord to inflict an amercement, known in England by the name of escuage.† Thus in Philip III.'s expedition against the Count de Foix in 1274, barons were assessed for their default of attendance, at a hundred sous a day for the expenses which they had saved, and fifty sous as a fine to the king; bannerets, at

* Du Cange, voc. Feudum militis; Membrum Loricæ. Stuart's View of Society, p. 382. This division by knights' fees is perfectly familiar in the feudal law of England. But I must confess my inability to adduce decisive evidence of it in that of France, with the usual exception of Normandy. According to the natural principle of fiefs, it might seem that the same personal service would be required from the tenant, whatever were the extent of his land. William the Conqueror, we know, distributed this kingdom into about 60,000 parcels, of nearly equal value, from each of which the service of a soldier was due. He may possibly have been the inventor of this politic arrangement. Some rule must however have been observed in all countries in fixing the amercement for absence, which could only be equitable if it bore a just proportion to the value of the fief. And the principle of the knight's fee was so convenient and reasonable, that it is likely to have been adopted in imitation of England by other feudal countries. In the roll of Philip III.'s expedition, as will appear by a note immediately below, there are, I think, several presumptive evidences of it, and though this is rather a late authority to establish a feudal principle, yet I have ventured to assume it in the text.

The knight's fee was fixed in England at the annual value of 20*l*. Every estate supposed to be of this value, and entered as such in the rolls of the exchequer, was bound to contribute the service of a soldier, or to pay an escuage to the amount assessed upon knights' fees.

† Littleton, l. ii. c. 3. Wright's Tenures, p. 121.

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twenty sous for expenses, and ten as a fine: knights and squires in the same proportion. But barons and bannerets were bound to pay an additional assessment for every knight and squire of their vassals whom they ought to have brought with them into the field.* The regulations as to place of service were less uniform than those which regard time. In some places, the vassal was not bound to go beyond the lord's territory,† or only so far as he might return the same day. Other customs compelled him to follow his chief upon all his expeditions.‡ These inconvenient and varying usages betray the origin of the feudal obligations, not founded upon any national policy, but springing from the chaos of anarchy and intestine war, which they were well calculated to perpetuate. For the public defence, their machinery was totally unserviceable, until such changes were wrought, as destroyed the character of the fabric.

Feudal incidents.

Independently of the obligations of fealty and service, which the nature of the contract created,

* Du Chesne, Script. Rerum Gallicarum, t. v. p. 553. Daniel, Histoire de la Milice Françoise, p. 72. The following extracts from the muster-roll of this expedition will illustrate the varieties of feudal obligation. Johannes d'Ormoy debet servitium per quatuor dies. Johannes Malet debet servitium per viginti dies, pro quo servitio misit Richardum Tichet. Guido de Laval debet servitium duorum militum et dimidii. Dominus Sabrandus dictus Chabot dicit quod non debet servitium domino regi, nisi in comitatu Pictaviensi, et ad sumptus regis, tamen venit ad preces regis cum tribus militibus et duodecim scutiferis. Guido de Lusigniaco Dom. de Pierac dicit, quod non debet aliquid regi præter homagium.

† This was the custom of Beauvoisis. Beaumanoir, c. 2.

‡ Du Cange, et Carpentier, voc. Hostis.

other advantages were derived from it by the lord, which have been called feudal incidents: these were 1. Reliefs. 2. Fines upon alienation. 3. Escheats. 4. Aids; to which may be added, though not generally established, 5. Wardship, and 6. Marriage.

Reliefs.

1. Some writers have accounted for Reliefs in the following manner. Benefices, whether depending upon the crown or its vassals, were not originally granted by way of absolute inheritance, but renewed from time to time upon the death of the possessor, till long custom grew up into right. Hence a sum of money, something between a price and a gratuity, would naturally be offered by the heir on receiving a fresh investiture of the fief; and length of time might as legitimately turn this present into a due of the lord, as it rendered the inheritance of the tenant indefeasible. This is a very specious account of the matter. But those who consider the antiquity to which hereditary benefices may be traced, and the unreserved expressions of those instruments by which they were created, as well as the undoubted fact, that a large proportion of fiefs had been absolute alodial inheritances, never really granted by the superior, will perhaps be led rather to look for the origin of reliefs in that rapacity with which the powerful are ever ready to oppress the feeble. When a feudal tenant died, the lord, taking advantage of his own strength and the confusion of the family, would seize the estate into his hands, either by the right of force, or under some litigious pretext,

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Against this violence, the heir could in general have no resource but a compromise; and we know how readily acts of successful injustice change their name, and move demurely, like the wolf in the fable, under the clothing of law. Reliefs and other feudal incidents are said to have been established in France* about the latter part of the tenth century, and they certainly appear in the famous edict of Conrad the Salic, in 1037, which recognizes the usage of presenting horses and arms to the lord, upon a change of tenancy.† But this also subsisted under the name of heriot, in England, as early as the reign of Canute.

A relief was a sum of money (unless where charter or custom introduced a different tribute) due from every one of full age, taking a fief by descent. This was in some countries arbitrary, or *ad misericordiam*, and the exactions practised under this pretence both upon superior and inferior vassals ranked amongst the greatest abuses of the feudal policy. Henry I. of England promises in his charter, that they shall in future be just and reasonable; but the rate does not appear to have been finally settled, till it was laid down in Magna Charta, at about the fourth of the annual value of the fief. We find also fixed reliefs among the old customs of Normandy and Beau-

* Ordonnances des Rois de France, t. i. préface, p. 10.

† Servato *usu* valvassorum majorum in tradendis armis equisque suis senioribus. This, among other reasons, leads me to doubt the received opinion, that Italian fiefs were not hereditary before the promulgation of this edict.

voisis. By a law of St. Louis, in 1245,* the lord was entitled to enter upon the lands, if the heir could not pay the relief, and possess them for a year. This right existed unconditionally in England under the name of primer seisin, but was confined to the king.†

Fines upon alienation.

2. Closely connected with reliefs, were the fines paid to the lord, upon the alienation of his vassal's feud; and indeed we frequently find them called by the same name. The spirit of feudal tenure established so intimate a connexion between the two parties, that it could be dissolved by neither without requiring the other's consent. If the lord transferred his seigniory, the tenant was to testify his concurrence; and this ceremony was long kept up in England under the name of attornment. The assent of the lord to his vassal's alienation was still more essential, and more difficult to be obtained. He had received his fief, it was supposed, for reasons peculiar to himself, or to his family; at least his heart and arm were bound to his superior; and his service was not to be exchanged for that of a stranger, who might be unable, or unwilling to render it. A law of Lo-

* Ordonnances des Rois, p. 55.

† Du Cange, v. Placitum, Relevium, Sporla. By many customs, a relief was due on every change of the lord, as well as of the vassal, but this was not the case in England. Beaumanoir speaks of reliefs as due only on collateral succession. Coûtumes de Beauvoisis, c. 27. In Anjou and Maine they were not even due upon succession between brothers. Ordonnances des Rois, t. i. p. 58. And M. de Pastoret, in his valuable preface to the sixteenth volume of that collection, says it was a rule, that the king had nothing upon lineal succession of a fief, whether in the ascending or descending line, but *la bouche et les mains;* i. e. homage and fealty. p. 20.

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thaire II. in Italy forbids the alienation of fiefs, without the lord's consent.* This prohibition is repeated in one of Frederic I. and a similar enactment was made by Roger king of Sicily.† By the law of France the lord was entitled, upon every alienation made by his tenant, either to redeem the fief by paying the purchase-money, or to claim a certain part of the value, by way of fine upon the change of tenancy.‡ In England, even the practice of sub-infeudation, which was more conformable to the law of fiefs and the military genius of the system, but injurious to the suzerains, who lost thereby their escheats and other advantages of seigniory, was checked by Magna Charta,§ and forbidden by the Statute 18

* Lib. Feudorum. l. ii. tit. 9. and 52. This was principally levelled at the practice of alienating feudal property in favour of the church, which was called, pro animâ judicare. Radevicus in Gestis Frederic. I. l. iv. c. 7. Lib. Feud. l. i. tit. 7. 16. l. ii. tit. 10.

† Giannone, l. ii. c. 5.

‡ Du Cange, v. Reaccapitum, Placitum, Rachatum. Pastoret, préface au seizième tome des Ordonnances, p. 20. Houard, Dict. du Droit Normand. Art. Fief. Argou, Inst. du Droit François. l. ii. c. 2. In Beaumanoir's age and district at least, sub-infeudation without the lord's licence incurred a forfeiture of the land; and his reason extends of course more strongly to alienation. Coûtumes de Beauvoisis, c. 2. Velly, t. vi. p. 187. But, by the general law of feuds, the former was strictly regular, while the tenant forfeited his land by the latter. Craig mentions this distinction as one for which he is perplexed to account. Jus Feudale, l. iii. tit. 3. p. 632. It is however perfectly intelligible upon the original principles of feudal tenure.

§ Dalrymple seems to suppose, that the 32d chapter of Magna Charta relates to alienation, and not to sub-infeudation. Essay on Feudal Property, edit. 1758. p. 83. See Sir E. Coke, 2 Inst. p. 65 and 501; and Wright on Tenures, contra. Mr. Hargrave observes, that "the history of our law with respect to the powers of alienation before the statute of Quia emptores terrarum is very much involved in obscurity." Notes on Co. Litt. 43. a. In Glanvil's time, apparently, a man could only alienate (to hold of himself) rationabilem partem de terrâ suâ. l. vii. c. 1. But this may have

Edward I. called Quia Emptores, which at the same time gave the liberty of alienating lands, to be holden of the grantor's immediate lord. The tenants of the crown were not included in this act; but that of 1 Edward III. c. 12. enabled them to alienate, upon the payment of a composition into chancery, which was fixed at one-third of the annual value of the lands.*

These restraints, placed for the lord's advantage upon the transfer of feudal property, are not to be confounded with those designed for the protection of heirs and preservation of families. Such were the *jus protimeseos*, in the books of the fiefs,† and *retrait lignager* of the French law, which gave to the relations of the vendor a pre-emption upon the sale of any fief, and a right of subsequent redemption. Such was the positive prohibition of alienating a fief held by descent from the father, (feudum paternum,) without the consent of the kindred on that line.‡ Such too were the still more rigorous fetters imposed by the English statute of entails, which precluded all lawful alienation, till, after two centuries, it was overthrown by the fictitious process of a common re-

been in favour of the kindred, as much as of the lord. Dalrymple's Essay, ubi supra.

It is probable, that Coke is mistaken in supposing, that "at the common law, the tenant might have made a feoffment of the whole tenancy to be holden of the lord."

* 2 Inst. p. 66. Blackstone's Commentaries, vol. ii. c. 5.

† Lib. Feud. l. v. t. 13. There were analogies to this jus προτιμήσεως in the Roman law, and, still more closely, in the constitutions of the later Byzantine emperors.

‡ Alienatio feudi paterni non valet etiam domini voluntate, nisi agnatis consentientibus. Lib. Feud. apud Wright on Tenures, p. 108. and 156.

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covery. Though these partake in some measure of the feudal spirit, and would form an important head in the legal history of that system, it will be sufficient to allude to them in a sketch, which is confined to the developement of its political influence.

A custom very similar in effect to sub-infeudation, was the tenure by *frérage*, which prevailed in many parts of France. Primogeniture, in that extreme which our common law has established, was unknown, I believe, in every country upon the continent. The customs of France found means to preserve the dignity of families, and the indivisibility of a feudal homage, without exposing the younger sons of a gentleman to absolute beggary or dependence. Baronies indeed were not divided; but the eldest son was bound to make a provision in money, by way of apanage, for the other children, in proportion to his circumstances and their birth.* As to inferior fiefs, in many places, an equal partition was made; in others, the eldest took the chief portion, generally two-thirds, and received the homage of his brothers for the remaining part, which they divided. To the lord of whom the fief was held, himself did homage for the whole.† In the early times of the feudal

* Du Cange, v. Apanamentum, Baro. Baronie ne depart mie entre fréres se leur pere ne leur a fait partie; mes li ainsnez doit faire avenant bienfet au puisné, et si doit les filles marier. Etablissem. de St. Louis, c. 24.

† This was also the law of Flanders and Hainault. Martenne, Thesaurus Anecdotor. t. i. p. 1092. The customs as to succession were exceedingly various, as indeed they continued to be until the late generalization of French law. Recueil des Histor. t. ii. preface, p. 108. Hist. de

policy, when military service was the great object of the relation between lord and vassal, this, like all other sub-infeudation, was rather advantageous to the former. For, when the homage of a fief was divided, the service was diminished in proportion. Suppose, for example, the obligation of military attendance for an entire manor to have been forty days; if that came to be equally split among two, each would owe but a service of twenty. But if instead of being homagers to the same suzerain, one tenant held immediately of the other, as every feudatary might summon the aid of his own vassals, the superior lord would in fact obtain the service of both. Whatever opposition, therefore, was made to the rights of sub-infeudation or frérage, would indicate a decay in the military character, the living principle of feudal tenure. Accordingly in the reign of Philip Augustus, when the fabric was beginning to shake, we find a confederate agreement of some principal nobles, sanctioned by the king, to abrogate the mesne tenure of younger brothers, and establish an immediate dependence of each upon the superior lord.* This, however, was not universally adopted, and the original frérage subsisted to the last in some of the customs of France.†

3. As fiefs descended but to the posterity of the first taker, or at the utmost to his kindred, they

Escheats and forfeitures.

Languedoc, t. ii. p. 111. and 511. In the former work it is said that primogeniture was introduced by the Normans from Scandinavia.

* Ordonnances des Rois, t. i. p. 29.

† Du Cange, Dissert. III. sur Joinville. Beauman. c. 47.

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necessarily became sometimes vacant for want of heirs; especially where, as in England, there was no power of devising them by will. In this case, it was obvious that they ought to revert to the lord, from whose property they had been derived. These reversions became more frequent through the forfeitures occasioned by the vassal's delinquency, either towards his superior lord, or the state. Various cases are laid down in the Assises de Jérusalem, where the vassal forfeits his land, for a year, for his life, or for ever.* But under rapacious kings, such as the Norman line in England, absolute forfeitures came to prevail, and a new doctrine was introduced, the corruption of blood, by which the heir was effectually excluded from deducing his title at any distant time, through an attainted ancestor.

Aids.

4. Reliefs, fines upon alienation, and escheats, seem to be natural reservations in the lord's bounty to his vassal. He had rights of another class which principally arose out of fealty and intimate attachment. Such were the aids which he was entitled to call for in certain prescribed circumstances. These depended a great deal upon local custom, and were often extorted unreasonably. Du Cange mentions several as having existed in France; such as an aid for the lord's expedition to the Holy Land, for marrying his sister, or eldest son, and for paying a relief to his suzerain on taking possession of his land.†

* C. 200, 201.

† Du Cange, voc. Auxilium,

Of these, the last appears to have been the most usual in England. But this, and other aids occasionally exacted by the lords, were felt as a severe grievance; and by Magna Charta three only are retained; to make the lord's eldest son a knight, to marry his eldest daughter, and to redeem his person from prison. They were restricted to nearly the same description by a law of William I. of Sicily, and by the customs of France.* These feudal aids are deserving of our attention, as the beginnings of taxation, of which for a long time they in a great measure answered the purpose, till the craving necessities and covetous policy of kings substituted for them more durable and onerous burthens.

I might here, perhaps, close the enumeration of feudal incidents, but that the two remaining, wardship and marriage, though only partial customs, were those of our own country, and tend to illustrate the rapacious character of a feudal aristocracy.

Wardship.

5. In England, and in Normandy which either led the way to or adopted all these English institutions, the lord had the wardship of his tenant during minority.† By virtue of this right, he had both the care of his person, and received to his own use the profits of the estate. There is something in this custom very conformable to the

* Giannone, l. xii. c. 5. Velly, t. vi. p. 200. Ordonnances des Rois, t. i. p. 138. t. xvi. préface.

† Recueil des Historiens, t. xi. préf. p. 162. Argou, Inst. au Droit François, l. i. c. 6. Houard, Anciennes Loix des François, t. i. p. 147.

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feudal spirit; since none was so fit as the lord to train up his vassal to arms; and none could put in so good a claim to enjoy the fief, while the military service for which it had been granted was suspended. This privilege of guardianship seems to have been enjoyed by the lord in some parts of Germany:* but in the law of France, the custody of the land was entrusted to the next heir, and that of the person, as in socage tenures among us, to the nearest kindred of that blood which could not inherit.† By a gross abuse of this custom in England, the right of guardianship in chivalry,

* Schilter, Institutiones Juris Feudalis, p. 85.

† Du Cange, v. Custodia. Assises de Jérusalem, c. 178. Etablissemens de St. Louis, c. 17. Beaumanoir, c. 15. Argou, l. i. c. 6. The second of these uses nearly the same expression as Sir John Fortescue in accounting for the exclusion of the next heir from guardianship of the person; that mauvaise convoitise li fairoit faire la garde du loup.

I know not any mistake more usual in English writers who have treated of the feudal law, than that of supposing, that guardianship in chivalry was an universal custom. A charter of 1198, in Rymer, t. i. p. 105. seems indeed to imply that the incidents of garde noble and of marriage existed in the isle of Oleron. But Eleanor, by a later instrument, grants that the inhabitants of that island should have the wardship and marriage of their heirs without any interposition, and expressly abrogates all the evil customs that her husband had introduced. p. 112. From hence I should infer, that Henry II. had endeavoured to impose these feudal burthens (which perhaps were then new even in England) upon his continental dominions. Radulphus de Diceto tells us of a claim made by him to the wardship of Chateauroux in Berry, which could not legally have been subject to that custom. Twysden, X Scriptores, p. 599. And he set up pretensions to the custody of the duchy of Britany, after the death of his son Geoffrey. This might perhaps be justified by the law of Normandy, on which Britany depended. But Philip Augustus made a similar claim. In fact, these political assertions of right, prompted by ambition, and supported by force, are bad precedents to establish rules of jurisprudence. Both Philip and Henry were abundantly disposed to realize so convenient a prerogative as that of guardianship in chivalry over the fiefs of their vassals. Lyttleton's Henry II. vol. iii. p. 441.

or temporary possession of the lands, was assigned over to strangers. This was one of the most vexatious parts of our feudal tenures, and was never perhaps more sorely felt, than in their last stage under the Tudor and Stuart families.

Marriage.

6. Another right given to the lord by the Norman and English laws was that of marriage, or of tendering a husband to his female wards, while under age, whom they could not reject without forfeiting the value of the marriage; that is, as much as any one would give to the guardian for such an alliance. This was afterwards extended to male wards; and became a very lucrative source of extortion to the crown, as well as to mesne lords. This custom seems to have had the same extent as that of wardships. It is found in the ancient books of Germany, but not of France.* The kings, however, and even inferior lords of that country, required their consent to be solicited for the marriage of their vassals' daughters. Several proofs of this occur in the history, as well as in the laws of France; and the same prerogative existed in Germany, Sicily, and England.† A still more remarkable law prevailed

* Schilter, ubi supra. Du Cange, voc. Disparagare, seems to admit this feudal right in France: but the passages he quotes do not support it. See also the word Maritagium.

† Ordonnances des Rois, t. i. p. 155. Assises de Jérus. c. 180. and Thaumassière's note. Du Cange, ubi supra. Glanvil, l. vii. c. 12. Giannone, l. xi. c. 5. Wright on Tenures, p. 94. St. Louis in return, declared that he would not marry his own daughter without the consent of his barons. Joinville, t. ii. p. 140. Henry I. of England had promised the same. The guardian of a female minor was obliged to give security to her lord not to marry her without his consent. Etablissemens de St. Louis, c. 63.

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in the kingdom of Jerusalem. The lord might summon any female vassal to accept one of three, whom he should propose as her husband. No other condition seems to have been imposed on him in selecting these suitors, than that they should be of equal rank with herself. Neither the maiden's coyness, nor the widow's affliction, neither aversion to the proffered candidates, nor love to one more favoured, seem to have passed as legitimate excuses. One, only one plea, could come from the lady's mouth, who was resolute to hold her land in single blessedness. It was, that she was past sixty years of age; and after this unwelcome confession, it is justly argued by the author of the law book which I quote, that the lord could not decently press her into matrimony.* However outrageous such an usage may appear to our ideas, it is to be recollected that the peculiar circumstances of that little state rendered it indispensable to possess in every fief a proper vassal to fulfil the duties of war.

These feudal servitudes distinguish the maturity of the system. No trace of them appears in the capitularies of Charlemagne and his family, nor in the instruments by which benefices were granted. I believe that they did not make part of the regular feudal law before the eleventh, or perhaps the twelfth century, though doubtless partial usages of this kind had grown up antecedently to either

* Ass. de Jérus. c. 224. I must observe, that Lauriere says this usage prevailed en plusieurs lieux, though he quotes no authority. Ordonnances des Rois, p. 155.

of those periods. If I am not mistaken, no allusion occurs to the lucrative rights of seigniory in the Assises de Jérusalem, which are a monument of French usages in the eleventh century. Indeed that very general commutation of alodial property into tenure, which took place between the middle of the ninth and eleventh centuries, would hardly have been effected, if fiefs had then been liable to such burthens and so much extortion. In half-barbarous ages, the strong are constantly encroaching upon the weak; a truth, which, if it needed illustration, might find it in the progress of the feudal system.

Proper and improper feuds.

We have thus far confined our inquiry to fiefs holden on terms of military service; since those are the most ancient and regular, as well as the most consonant to the spirit of the system. They alone were called proper feuds, and all were presumed to be of this description, until the contrary was proved by the charter of investiture. A proper feud was bestowed without price, without fixed stipulation, upon a vassal capable of serving personally in the field. But gradually, with the help of a little legal ingenuity, improper fiefs of the most various kinds were introduced, retaining little of the characteristics, and less of the spirit which distinguished the original tenures. Women, if indeed that were an innovation, were admitted to inherit them;* they were granted for a price,

* Women did not inherit fiefs in the German empire. Whether they were ever excluded from succession in France, I know not; the

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and without reference to military service. The language of the feudal law was applied by a kind of metaphor to almost every transfer of property. Hence, pensions of money, and allowances of provisions, however remote from right notions of a fief, were sometimes granted under that name; and even where land was the subject of the donation, its conditions were often lucrative, often honorary, and sometimes ludicrous.*

Fiefs of office.

There is one extensive species of feudal tenure which may be distinctly noticed. The pride of wealth in the middle ages was principally exhibited in a multitude of dependents. The court of Charlemagne was crowded with officers of every rank, some of the most eminent of whom exercised functions about the royal person, which would have been thought fit only for slaves in the palace of Augustus or Antonine. The free born Franks saw nothing menial in the titles of cup-bearer, steward, marshal, and master of the horse, which are still borne by the noblest families in every country of Europe, and by sovereign princes in the Empire. From the court of the king, this favourite piece of magnificence descended to those of the prelates and barons, who surrounded themselves with household officers called ministerials; a name equally

genius of a military tenure, and the old Teutonic customs, preserved in the Salic law, seem adverse to their possession of feudal lands; yet the practice, at least from the eleventh century downwards, does not support the theory.

* Crag. Jus Feudale, l. i. tit. 10. Du Cange, voc. Feudum de Camerâ, &c. In the treaty between Henry I. of England and Robert count of Flanders, A.D. 1101, the king stipulates to pay annually 400 marks of silver, *in feodo*, for the military service of his ally. Rymer, Fœdera, t. i. p. 2.

applied to those of a servile and of a liberal description.* The latter of these were rewarded with grants of lands, which they held under a feudal tenure by the condition of performing some domestic service to the lord. What was called in our law grand serjeanty affords an instance of this species of fief.† It is, however, an instance of the noblest kind; but Muratori has given abundance of proofs, that the commonest machanical arts were carried on in the houses of the great, by persons receiving lands upon those conditions.‡

These imperfect feuds, however, belong more properly to the history of law, and are chiefly noticed in the present sketch, because they attest the partiality manifested during the middle ages to the name and form of a feudal tenure. In the regular military fief we see the real principle of the system, which might originally have been defined, an alliance of free land-holders arranged in degrees of subordination according to their respective capacities of affording mutual support.

Feudal law books.

The peculiar and varied attributes of feudal tenures naturally gave rise to a new jurisprudence, regulating territorial rights in those parts of Europe

* Schmidt, Hist. des Allemands, t. iii. p. 92. Du Cange, v. Familiæ, Ministeriales.

† "This tenure," says Lyttleton "is where a man holds his lands or tenements of our sovereign lord the king by such services as he ought to do in his proper person to the king, as to carry the banner of the king, or his lance, or to lead his array, or to be his marshal, or to carry his sword before him at his coronation, or to be his sewer at his coronation, or his carver, or his butler, or to be one of his chamberlains at the receipt of his exchequer, or to do other like services." Sect. 153.

‡ Antiq. Ital. Dissert. 11. ad finem.

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which had adopted the system. For a length of time, this rested in traditionary customs, observed in the domains of each prince or lord, without much regard to those of his neighbours. Laws were made occasionally by the emperor in Germany and Italy, which tended to fix the usages of those countries. About the year 1170, Girard and Obertus, two Milanese lawyers, published two books of the law of fiefs, which obtained a great authority, and have been regarded as the groundwork of that jurisprudence.* A number of subsequent commentators swelled this code with their glosses and opinions, to enlighten or obscure the judgment of the imperial tribunals. These were chiefly civilians or canonists, who brought to the intrepretation of old barbaric customs the principles of a very different school. Hence a manifest change was wrought in the law of feudal tenure, which they assimilated to the usufruct or the emphyteusis of the Roman code; modes of property somewhat analogous in appearance, but totally distinct in principle from the legitimate fief. These Lombard lawyers propagated a doctrine, which has been too readily received, that the feudal system originated in their country; and some writers upon jurisprudence, such as Duck and Sir James Craig, incline to give a preponderating authority to their code. But whatever weight it may have possessed within the limits of the empire, a different guide

* Giannone, Ist. di Napoli, l. xiii. c. 3. The Libri Feudorum are printed in most editions of the Corpus Juris Civilis.

must be followed in the ancient customs of France and England.* These were fresh from the fountain of that curious polity, with which the stream of Roman law had never mingled its waters. In England we know that the Norman system, established between the conquest and the reign of Henry II., was restrained by regular legislation, by paramount courts of justice, and by learned writings, from breaking into discordant local usages, except in a comparatively small number of places, and has become the principal source of our common law. But the independence of the French nobles produced a much greater variety of customs. The whole number collected and reduced to certainty in the sixteenth century amounted to two hundred and eighty-five, or, omitting those inconsiderable for extent or peculiarity, to sixty. The earliest written customary in France is that of Bearn, which is said to have been confirmed by Viscount Gaston IV. in 1088.† Many others were written in the two subsequent ages, of which the customs of

* Giannone explicitly contrasts the French and Lombard laws respecting fiefs. The latter was the foundation of the Libri Feudorum, and formed the common law of Italy. The former was introduced by Roger Guiscard into his dominions, in three books of constitutions, printed in Lindebrog's collection. There were several material differences, which Giannone enumerates, especially the Norman custom of primogeniture. Ist. di Nap. l. xi. c. 5.

† There are two editions of this curious old code; one at Pau, in 1552, republished with a fresh title-page and permission of Henry IV., in 1602; the other at Lescars, in 1633. These laws, as we read them, are subsequent to a revision made in the middle of the sixteenth century, in which they were more or less corrected. The basis, however, is unquestionably very ancient. We even find the composition for homicide preserved in them, so that murder was not a capital offence in Bearn, though robbery was such. Rubrica de Homicidis. Art. xxxi. See too Rubrica de Pœnis, Art. i. and ii.

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Beauvoisis, compiled by Beaumanoir under Philip III., are the most celebrated, and contain a mass of information on the feudal constitution and manners. Under Charles VII., an ordinance was made for the formation of a general code of customary law, by ascertaining for ever in a written collection those of each district; but the work was not completed till the reign of Charles IX. This was what may be called the common law of the *pays coutumiers*, or northern division of France, and the rule of all their tribunals, unless where controuled by royal edicts.

PART II.

Analysis of the Feudal System—Its local extent—View of the different Orders of Society during the Feudal Ages—Nobility—their Ranks and Privileges—Clergy—Freemen—Serfs or Villeins—Comparative State of France and Germany—Privileges enjoyed by the French Vassals—Right of coining Money—And of private War—Immunity from Taxation—Historical View of the Royal Revenue in France—Methods adopted to augment it by depreciation of the Coin, &c.—Legislative Power—Its state under the Merovingian Kings—and Charlemagne—His Councils—Suspension of any general Legislative Authority during the prevalence of Feudal Principles—The King's Council—Means adopted to supply the Want of a National Assembly—Gradual Progress of the King's Legislative Power—Philip IV. assembles the States General—Their Powers limited to Taxation—States under the Sons of Philip IV.—States of 1355 *and* 1356*—They nearly effect an entire Revolution—The Crown recovers its Vigour—States of* 1380*, under Charles VI.—Subsequent Assemblies under Charles VI. and Charles VII.—The Crown becomes more and more absolute—Louis XI.—States of Tours in* 1484*—Historical View of Jurisdiction in France—Its earliest stage under the first Race of Kings, and Charlemagne—Territorial Jurisdiction—Feudal Courts of Justice—Trial by Combat—Code of St. Louis—The Territorial Jurisdictions give way—Progress of the Judicial Power of the Crown—Parliament of Paris—Peers of France—Increased Authority of the Parliament—Registration of Edicts—Causes of the Decline of Feudal System—Acquisitions of Domain by the Crown—Charters of Incorporation granted to Towns—Their previous Condition—First Charters in the twelfth Century—Privileges contained in them—Military Service of Feudal Tenants commuted for Money—Hired Troops—Change in the Military System of*

Europe—General View of the Advantages and Disadvantages attending the Feudal System.

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Analogies to the feudal tenure.

It has been very common to seek for the origin of feuds, or at least for analogies to them, in the history of various countries. But, though it is of great importance to trace the similarity of customs in different parts of the world, because it guides us to the discovery of general theorems as to human society, yet we should be on our guard against seeming analogies, which vanish away when they are closely observed. It is easy to find partial resemblances to the feudal system. The relation of patron and client in the Roman republic is not unlike that of lord and vassal, in respect of mutual fidelity; but it was not founded upon the tenure of land, nor military service. The veteran soldiers, and, in later times, some barbarian allies of the emperors, received lands upon condition of public defence; but they were bound not to an individual lord, but to the state. Such a resemblance to fiefs may be found in the Zemindaries of Hindostan, and the Timariots of Turkey. The clans of the Highlanders and Irish followed their chieftain into the field; but their tie was that of imagined kindred and respect for birth, not the spontaneous compact of vassalage. Much less can we extend the name of feud, though it is sometimes strangely misapplied, to the polity of Poland and Russia. All the Polish nobles were equal in rights, and independent of each other; all who were less than noble, were in servitude.

No government can be more opposite to the long gradations and mutual duties of the feudal system.*

Extent of the feudal system.

The regular machinery and systematic establishment of feuds, in fact, may be considered as almost confined to the dominions of Charlemagne, and to those countries which afterwards derived it from thence. In England, it can hardly be thought to have existed in a complete state before the conquest. Scotland, it is supposed, borrowed it soon after from her neighbour. The Lombards of Benevento had introduced feudal customs into the Neapolitan provinces, which the Norman conquerors afterwards perfected. Feudal tenures were so general in the kingdom of Aragon, that I reckon it among the monarchies which were founded upon that basis.† Charlemagne's empire,

* In civil history many instances might be found of feudal ceremonies in countries not regulated by the feudal law. Thus Selden has published an infeudation of a vayvod of Moldavia by the king of Poland, A.D. 1485, in the regular forms. vol. iii. p. 514. But these political fiefs have hardly any connexion with the general system, and merely denote the subordination of one prince or people to another.

† It is probable that feudal tenure was as ancient in the north of Spain, as in the contiguous provinces of France. But it seems to have chiefly prevailed in Aragon about the twelfth and thirteenth centuries, when the Moors south of the Ebro were subdued by the enterprize of private nobles, who, after conquering estates for themselves, did homage for them to the king. James I. upon the reduction of Valencia, granted lands by way of fief, on condition of defending that kingdom against the Moors, and residing personally upon the estate. Many did not perform this engagement, and were deprived of the lands in consequence. It appears by the testament of this monarch, that feudal tenures subsisted in every part of his dominions. Martenne, Thesaurus Anecdotorum, t. i. p. 1141. 1155. An edict of Peter II. in 1210 prohibits the alienation of *emphyteuses* without the lord's consent. It is hard to say, whether regular fiefs are meant by this word. De Marca, Marca Hispanica, p. 1396. This author says,

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it must be remembered, extended as far as the Ebro. But in Castile* and Portugal they were very rare, and certainly could produce no political effect. Benefices for life were sometimes granted in the kingdoms of Denmark and Bohemia.† Neither of these, however, nor Sweden nor Hungary, comes under the description of countries influenced by the feudal system.‡ That system, however, after all these limitations, was so extensively dif-

that there were no arriere-fiefs in Catalonia.

The Aragonese fiefs appear however to have differed from those of other countries in some respects. Zurita mentions fiefs *according to the custom of Italy*, which he explains to be such as were liable to the usual feudal aids for marrying the lord's daughter, and other occasions. We may infer, therefore, that these prestations were not customary in Aragon. Anales de Aragon, t. ii. p. 62.

* What is said of vassalage in Alfonso X.'s code, Las siete partidas, is short and obscure; nor am I certain that it meant anything more than *voluntary commendation*, the custom mentioned in the former part of this chapter, from which the vassal might depart at pleasure. See, however, Du Cange, v. Honor, where authorities are given for the existence of Castilian fiefs; and I have met with occasional mention of them in history. I believe that tenures of this kind were introduced in the fourteenth and fifteenth centuries; but not to any great extent. Marina, Teoria de las Cortes, t. iii. p. 14.

Tenures of a feudal nature, as I collect from Freirii Institut. Juris Lusitani, tom. ii. t. 1. and 3. existed in Portugal, though the jealousy of the crown prevented the system from being established. There were even territorial jurisdictions in that kingdom, though not, at least originally, in Castile.

† Daniæ regni politicus status. Elzevir, 1629. Stransky. Respublica Bohemica. Ib. In one of the oldest Danish historians, Sweno, I have noticed this expression: Waldemarus, patris tunc potitus *feodo*. Langebek, Scrip. Rerum Danic. t. i. p. 62. By this he means the duchy of Sleswic, not a fief, but an honour or government possessed by Waldemar. Saxo Grammaticus calls it more classically, paternæ præfecturæ dignitas. Sleswic was, in later times, sometimes held as a fief; but this does not in the least imply that lands in Denmark proper were feudal, of which I find no evidence.

‡ Though there were no feudal tenures in Sweden, yet the nobility and others were exempt from taxes on condition of serving the king with a horse and arms at their own expense; and a distinction was taken between *liber* and *tributarius*. But any one of the latter might become of the former class, or vice versâ. Sueciæ descriptio. Elzevir, 1631. p. 92.

fused, that it might produce confusion, as well as prolixity, to pursue the collateral branches of its history in all the countries where it prevailed. But this embarrassment may be avoided without any loss, I trust, of important information. The English constitution will find its place in another portion of these volumes; and the political condition of Italy, after the eleventh century, was not much affected, except in the kingdom of Naples, an inconsiderable object by the laws of feudal tenure. I shall confine myself therefore, chiefly, to France and Germany; and far more to the former than the latter country. But it may be expedient first to contemplate the state of society in its various classes during the prevalence of feudal principles, before we trace their influence upon the national government.

Classes of society. Nobility.

It has been laid down already as most probable that no proper aristocracy, except that of wealth, was known under the early kings of France; and it was hinted that hereditary benefices, or, in other words, fiefs, might supply the link that was wanting between personal privileges and those of descent. The possessors of beneficiary estates were usually the richest and most conspicuous individuals in the state. They were immediately connected with the crown, and partakers in the exercise of justice and royal counsels. Their sons now came to inherit this eminence; and, as fiefs were either inalienable, or at least not very frequently alienated, rich families were kept long in sight; and, whe-

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ther engaged in public affairs, or living with magnificence and hospitality at home, naturally drew to themselves popular estimation. The dukes and counts, who had changed their quality of governors into that of lords over the provinces intrusted to them, were at the head of this noble class. And in imitation of them, their own vassals, as well as those of the crown, and even rich alodialists, assumed titles from their towns or castles, and thus arose a number of petty counts, barons, and viscounts. This distinct class of nobility became co-extensive with the feudal tenures. For the military tenant, however poor, was subject to no tribute, no prestation, but service in the field; he was the companion of his lord in the sports and feasting of his castle, the peer of his court; he fought on horseback, he was clad in the coat of mail, while the commonalty, if summoned at all to war, came on foot, and with no armour of defence. As every thing in the habits of society conspired with that prejudice, which, in spite of moral philosophers, will constantly raise the profession of arms above all others, it was a natural consequence, that a new species of aristocracy, founded upon the mixed considerations of birth, tenure, and occupation, sprang out of the feudal system. Every possessor of a fief was a gentleman, though he owned but a few acres of land, and furnished his slender contribution towards the equipment of a knight. In the Libri Feudorum indeed, those who were three degrees removed from the emperor

in order of tenancy, are considered as ignoble;* but this is restrained to modern investitures; and in France, where sub-infeudation was carried the farthest, no such distinction has met my observation.†

There still, however, wanted something to ascertain gentility of blood, where it was not marked by the actual tenure of land. This was supplied by two innovations devised in the eleventh and twelfth centuries; the adoption of sirnames, and of armorial bearings. The first are commonly referred to the former age, when the nobility began to add the names of their estates to their own, or, having any way acquired a distinctive appellation, transmitted it to their posterity.‡ As to armorial bearings, there is no doubt that emblems somewhat similar have been immemorially used both in war and peace. The shields of ancient warriors, and devices upon coins or seals, bear no distant resemblance to modern blazonry. But the general introduction of such bearings, as hereditary distinctions, has been sometimes attributed to tournaments, wherein the champions were distinguished by fanciful devices; sometimes to the

* L. ii. t. 10.

† The nobility of an *alodial* possession, in France, depended upon its right to territorial jurisdiction. Hence there were *franc-aleux nobles*, and *franc-aleux roturiers*; the latter of which were subject to the jurisdiction of the neighbouring lord. Loiseau, Traité des Seigneuries, p. 76. Denisart, Dictionnaires de Décisions, art. Franc-aleu.

‡ Mabillon, Traité de Diplomatique, l. ii. c. 7. The authors of the Nouveau Traité de Diplomatique, t. ii. p. 563. trace the use of sirnames in a few instances even to the beginning of the tenth century; but they did not become general, according to them, till the thirteenth.

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crusades, where a multitude of all nations and languages stood in need of some visible token to denote the banners of their respective chiefs. In fact, the peculiar symbols of heraldry point to both these sources, and have been borrowed in part from each.* Hereditary arms were perhaps scarcely used by private families before the beginning of the thirteenth century.† From that time, however, they became very general, and have

* Mém. de l'Acad. des Inscriptions, t. xx. p. 579.

† I should be unwilling to make a negative assertion peremptorily in a matter of mere antiquarian research; but I am not aware of any decisive evidence that hereditary arms were borne in the twelfth century, except by a very few royal or almost royal families. Mabillon, Traité de Diplomatique, l. ii. c. 18. Those of Geoffrey the Fair, count of Anjou, who died in 1150, are extant on his shield: azure, four lions rampant or. Hist. Littéraire de la France, t. ix. p. 165. If arms had been considered as hereditary at that time, this should be the bearing of England, which, as we all know, differs considerably. Louis VII. sprinkled his seal and coin with fleurs de lys, a very ancient device, or rather ornament; and the same as what are sometimes called bees. The golden ornaments found in the tomb of Childeric I. at Tournay, which may be seen in the library of Paris, may pass either for fleurs de lys, or bees. Charles V. reduced the number to three, and thus fixed the arms of France. The counts of Toulouse used their cross in the twelfth age; but no other arms, Vaissette tells us, can be traced in Languedoc so far back. t. iii. p. 514.

Armorial bearings were in use among the Saracens during the later crusades; as appears by a passage in Joinville, t. i. p. 88. (Collect. des Mémoires) and Du Cange's note upon it. Perhaps however they may have been adopted in imitation of the Franks, like the ceremonies of knighthood. Villaret ingeniously conjectures, that the separation of different branches of the same family by their settlements in Palestine led to the use of hereditary arms, in order to preserve the connexion. t. xi. p. 113.

M. Sismondi, I observe, seems to entertain no doubt that the noble families of Pisa, including that whose name he bears, had their armorial distinctions in the beginning of the twelfth century. Hist. des Républ. Ital. t. i. p. 373. It is at least probable, that heraldic devices were as ancient in Italy as in any part of Europe. And the authors of Nouveau Traité de Diplomatique, t. iv. p. 388. incline to refer hereditary arms even in France to the beginning of the twelfth century; though without producing any evidence for this.

contributed to elucidate that branch of history, whatever value we may assign to it, which regards the descent of illustrious families.

Its privileges.

When the privileges of birth had thus been rendered capable of legitimate proof, they were enhanced in a great degree, and a line drawn between the high born and ignoble classes, almost as broad as that which separated liberty from servitude. All offices of trust and power were conferred on the former; those excepted, which appertain to the legal profession. A plebeian could not possess a fief.* Such at least was the original strictness: but as the aristocratic principle grew weaker, an indulgence was extended to heirs, and afterwards to purchasers.† They were even permitted to become noble by the acquisition, or at least by its possession for three generations.‡ But

* We have no English word that conveys the full sense of *roturier*. How glorious is this deficiency in our political language, and how different are the ideas suggested by *commoner!* Roturier, according to Du Cange, is derived from rupturarius, a peasant, ab agrum rumpendo.

† The Establishments of St. Louis forbid this innovation, but Beaumanoir contends that the prohibition does not extend to descent or marriage. c. 48. The roturier who acquired a fief, if he challenged any one, fought with ignoble arms; but in all other respects was treated as a gentleman. ibid. Yet a knight was not obliged to do homage to the roturier, who became his superior by the acquisition of a fief on which he depended. Carpentier, Supplement. ad Du Cange, voc. Homagium.

‡ Etablissemens de St. Louis, c. 143. and note, in Ordonnances des Rois, t. i. See also preface to the same volume, p. xii. According to Mably, the possession of a fief did not cease to confer nobility (analogous to our barony by tenure) till the Ordonnance de Blois in 1579. Observations sur l'Hist. de France, l. iii. c. i. note 6. But Laurière, author of the preface above cited, refers to Bouteiller, a writer of the fourteenth century, to prove that no one could become noble without the king's authority. The contradiction will not much perplex us, when we reflect on the disposition of lawyers to ascribe all prerogatives to the crown, at the expense of territorial proprietors, and of ancient customary law.

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notwithstanding this ennobling quality of the land, which seems rather of an equivocal description, it became an established right of the crown to take, every twenty years, and on every change of the vassal, a fine known by the name of franc-fief, from plebeians in possession of land held by a noble tenure.* A gentleman in France or Germany could not exercise any trade without derogating, that is, losing the advantages of his rank. A few exceptions were made, at least in the former country, in favour of some liberal arts, and of foreign commerce.† But in nothing does the feudal haughtiness of birth more shew itself, than in the disgrace which attended unequal marriages. No children could inherit a territory held immediately of the empire, unless both their parents belonged to the higher class of nobility. In France, the offspring of a gentleman by a plebeian mother were reputed noble for the purposes of inheritance, and of exemption from tribute.‡ But they could not be received into any order of chivalry, though capable of simple knighthood; nor were they considered as any better than a

* The right, originally perhaps usurpation, called franc-fief, began under Philip the Fair. Ordonnances des Rois, t. i. p. 324. Denisart, Art. Franc-fief.

† Houard, Dict. du Droit Normand. Encyclopédie, Art. Noblesse. Argou, l. ii. c. 2.

‡ Nobility, to a certain degree, was communicated through the mother alone, not only by the custom of Champagne, but in all parts of France; that is, the issue were 'gentilhommes du fait de leur corps,' and could possess fiefs; but, says Beaumanoir, 'la gentillesse par laquelle on devient chevalier, doit venir de par le père.' c. 45. There was a proverbial maxim in French law, rather emphatic than decent, to express the derivation of gentility from the father, and of freedom from the mother.

bastard class, deeply tainted with the alloy of their maternal extraction. Many instances occur where letters of nobility have been granted to re-instate them in their rank.* For several purposes it was necessary to prove four, eight, sixteen, or a greater number of quarters, that is, of coats borne by paternal and maternal ancestors, and the same practice still subsists in Germany.

It appears, therefore, that the original nobility of the continent were what we may call self-created, and did not derive their rank from any such concessions of their respective sovereigns, as have been necessary in subsequent ages. In England, the baronies by tenure might belong to the same class, if the lands upon which they depended had not been granted by the crown. But the kings of France, before the end of the thirteenth century, began to assume a privilege of creating nobles by their own authority, and without regard to the tenure of land. Philip the Hardy, in 1271, was the first French king who granted letters of nobility; under the reigns of Philip the Fair and his children they gradually became frequent.† This effected a change in the character of nobility; and had as obvious a moral, as other events of the same age had a political influence, in diminishing the power and independence of the territorial aristocracy. The pri-

* Beaumanoir, c. 45. Du Cange, Dissert. 10. sur Joinville. Carpentier, voc. Nobilitatio.

† Velly, t. vi. p. 432. Du Cange, and Carpentier, voce Nobilitare, &c. Boulainvilliers, Hist. de l'ancien Gouvernement de France, t. i. p. 317.

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vileges originally connected with ancient lineage and extensive domains became common to the low-born creatures of a court, and lost consequently part of their title to respect. The lawyers, as I have observed above, pretended that nobility could not exist without a royal concession. They acquired themselves, in return for their exaltation of prerogative, an official nobility by the exercise of magistracy. The institutions of chivalry again gave rise to a vast increase of gentlemen; knighthood, on whomsoever conferred by the sovereign, being a sufficient passport to noble privileges. It was usual, perhaps, to grant previous letters of nobility to a plebeian for whom the honour of knighthood was designed.

Different orders of nobility.

In this noble or gentle class there were several gradations. All those, in France, who held lands immediately depending upon the crown, whatever titles they might bear, were comprised in the order of barons. These were, originally, the peers of the king's court; they possessed the higher territorial jurisdiction, and had the right of carrying their own banner into the field.*

* Beaumanoir, c. 34. Du Cange, v. Baro. Etablissemens de St. Louis, l. i. c. 24. l. ii. c. 36. The vassals of inferior lords were however called, improperly, Barons, both in France and England. Recueil des Historiens, t. xi. p. 300. Madox, Baronia Anglica, p. 133. In perfect strictness, those only, whose immediate tenure of the crown was older than the accession of Hugh Capet, were barons of France; namely, Bourbon, Coucy, and Beaujeu, or Beaujolois. It appears, however, by a register in the reign of Philip Augustus, that fifty-nine were reckoned in that class; the feudataries of the Capetian fiefs, Paris and Orleans, being confounded with the original vassals of the crown. Du Cange, voc. Baro.

To these corresponded the Valvassores majores and Capitanei of the empire. In a subordinate class were the vassals of this high nobility, who, upon the continent, were usually termed Vavassors; an appellation not unknown, though rare, in England.* The Châtelains belonged to the order of Vavassors, as they held only arriere fiefs; but having fortified houses, from which they derived their name, (a distinction very important in those times,) and possessing ampler rights of territorial justice, they rose above the level of their fellows in the scale of tenure.† But after the personal nobility of chivalry became the object of pride, the Vavassors, who obtained knighthood, were commonly styled bachelors; those who had not re-

* Du Cange, v. Vavassor. Velly, t. vi. p. 151. Madox, Baronia Anglica, p. 135. There is, perhaps, hardly any word more loosely used than Vavassor. Bracton says, Sunt etiam Vavassores, magnæ dignitatis viri. In France and Germany, they are sometimes named with much less honour. Je suis un chevalier né de cest part, de *vavasseurs et de basse gent*, says a romance. This is to be explained by the poverty to which the subdivision of fiefs reduced idle gentlemen.

† Du Cange, v. Castellanus. Coûtumes de Poitou, tit. iii. Loiseau, Traité des Seigneuries, p. 160. Whoever had a right to a castle had la haute justice; this being so incident to the castle, that it was transferred along with it. There might however be a Seigneur haut-justicier below the Châtelain; and a ridiculous distinction was made as to the number of posts by which their gallows might be supported. A baron's instrument of execution stood on four posts; a châtelain's on three; while the inferior lord, who happened to possess la haute justice, was forced to hang his subjects on a two-legged machine. Coûtumes de Poitou. Du Cange, v. Furca.

Laurière quotes from an old manuscript the following short scale of ranks. Duc est la première dignité, puis comtes, puis viscomtes, et puis baron, et puis châtelain, et puis vavasseur, et puis citaen, et puis villain. Ordonnances des Rois, t. i. p. 277.

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ceived that honour fell into the class of squires,* or damoiseaux.

Clergy.

It will be needless to dwell upon the condition of the inferior clergy, whether secular or professed, as it bears little upon the general scheme of polity. The prelates and abbots, however, it must be understood, were completely feudal nobles. They swore fealty for their lands to the king or other superior, received the homage of their vassals, enjoyed the same immunities, exercised the same jurisdiction, maintained the same authority, as the lay lords among whom they dwelt. Military service does not appear to have been reserved in the beneficiary grants made to cathedrals and monasteries. But, when other vassals of the crown were called upon to repay the bounty of their sovereign by personal attendance in war, the ecclesiastical tenants were supposed to fall within the scope of this feudal duty, which men, little less uneducated and violent than their compatriots, were not reluctant to fulfil. Charlemagne exempted or rather prohibited them from personal

* The sons of knights, and gentlemen not yet knighted, took the appellation of squires in the twelfth century. Vaissette, Hist. de Lang. t. ii. p. 513. That of Damoiseau came into use in the thirteenth. Id. t. iii. p. 529. The latter was, I think, more usual in France. Du Cange gives little information as to the word squire. (Scutifer.) 'Apud Anglos,' he says, 'penultima est nobilitatis descriptio, inter Equitem et Generosum. Quod et alibi in usu fuit.' Squire was not used as a title of distinction in England till the reign of Edward III. and then but sparingly. Though by Henry VI.'s time it was grown more common, yet none assumed it but the sons and heirs of knights, and some military men; except officers in courts of justice, who, by patent or prescription, had obtained that addition. Spelman's Posthumous Works, p. 234.

service by several capitularies.* The practice, however, as every one who has some knowledge of history will be aware, prevailed in succeeding ages. Both in national and private warfare, we find very frequent mention of martial prelates.† But, contrary as this actual service might be to the civil, as well as ecclesiastical laws, the clergy who held military fiefs were of course bound to fulfil the chief obligation of that tenure, and send their vassals into the field. We have many instances of their accompanying the army, though not mixing in the conflict; and even the parish priests headed the militia of their villages.‡ The prelates however sometimes contrived to avoid this military service, and the payments introduced in commutation for it, by holding lands in frank-almoigne, a tenure which exempted them from every species of obligation, except that of saying masses for the benefit of the grantor's family.§ But, notwithstanding the warlike disposition of some ecclesiastics, their more usual inability to protect the estates of their churches against rapacious neigh-

* Mably, l. i. c. 5. Baluze, t. i. p. 410. 932. 987. Any bishop, priest, deacon, or subdeacon bearing arms was to be degraded, and not even admitted to lay communion. Id. p. 932.

† One of the latest instances probably of a fighting bishop is Jean Montaigu, archbishop of Sens, who was killed at Azincourt. Monstrelet says, that he was 'non pas en estat pontifical, car au lieu de mitre il portoit une bacinet, pour dalmatique portoit un haubergeon, pour chasuble la piece d'acier; et au lieu de crosse, portoit une hache.' fol. 132.

‡ Daniel, Hist. de la Milice Françoise, t. i. p. 88.

§ Du Cange, Eleemosyna Libera. Madox, Baronia Angl. p. 115. Coke on Littleton, and other English law books.

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bours suggested a new species of feudal relation and tenure. The rich abbeys elected an advocate, whose business it was to defend their interests both in secular courts, and, if necessary, in the field. Pepin and Charlemagne are styled Advocates of the Roman church. This indeed was on a magnificent scale; but in ordinary practice, the advocate of a monastery was some neighbouring lord, who, in return for his protection, possessed many lucrative privileges, and, very frequently, considerable estates by way of fief from his ecclesiastical clients. Some of these advocates are reproached with violating their obligation, and becoming the plunderers of those whom they had been retained to defend.*

The classes below the gentry may be divided into freemen and villeins. Of the first were the inhabitants of chartered towns, the citizens and burghers, of whom more will be said presently. As to those who dwelt in the country, we can have no difficulty in recognizing, so far as England is concerned, the socagers, whose tenure was free, though not so noble as knight's service, and a numerous body of tenants for term of life, who formed that ancient basis of our strength, the English yeomanry. But the mere freemen are not at first sight so distinguishable in other countries. In French records and law books of

* Du Cange, v. Advocatus; a full and useful article. Recueil des Historiens, t. xi. preface, p. 184.

feudal times, all besides the gentry are usually confounded under the names of villeins or hommes de pooste, (gens potestatis).* This proves the slight estimation in which all persons of ignoble birth were considered. For undoubtedly there existed a great many proprietors of land and others, as free, though not as privileged as the nobility. In the south of France, and especially Provence, the number of freemen is remarked to have been greater than in the parts on the right bank of the Loire, where the feudal tenures were almost universal.† I shall quote part of a passage in Beaumanoir, which points out this distinction of ranks pretty fully. "It should be known, he says,‡ that there are three conditions of men in this world; the first, is that of gentlemen; and the second, is that of such as are naturally free, being born of a free mother. All who have a right to be called gentlemen are free, but all who are free are not gentlemen. Gentility comes by the father, and not by the mother; but

* Homo potestatis, non nobilis —Ita nuncupantur, quod in potestate domini sunt — Opponuntur viris nobilibus; apud Butilerium Consuetudinarii vocantur, Coustumiers, prestationibus scilicet obnoxii et operis. Du Cange, v. Potestas. As all these freemen were obliged, by the ancient laws of France, to live under the protection of some particular lord, and found great difficulty in chusing a new place of residence, as they were subject to many tributes and oppressive claims on the part of their territorial superiors, we cannot be surprized that they are confounded, at this distance, with men in actual servitude.

† Heeren, Essai sur les Croisades, p. 122.

‡ Coûtumes de Beauvoisis, c. 45. p. 256.

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freedom is derived from the mother only: and whoever is born of a free mother, is himself free, and has free power to do any thing that is lawful."

Serfs or villeins.

In every age and country, until times comparatively recent, personal servitude appears to have been the lot of a large, perhaps the greater, portion of mankind. We lose a good deal of our sympathy with the spirit of freedom in Greece and Rome, when the importunate recollection occurs to us, of the tasks which might be enjoined, and the punishments which might be inflicted, without controul either of law or opinion, by the keenest patriot of the Comitia, or the Council of Five Thousand. A similar, though less powerful, feeling will often force itself on the mind, when we read the history of the middle ages. The Germans, in their primitive settlements, were accustomed to the notion of slavery, incurred not only by captivity, but by crimes, by debt, and especially by loss in gaming. When they invaded the Roman empire, they found the same condition established in all its provinces. Hence, from the beginning of the æra now under review, servitude, under somewhat different modes, was extremely common. There is some difficulty in ascertaining its varieties and stages. In the Salic laws, and in the Capitularies, we read not only of Servi, but of Tributarii, Lidi, and Coloni, who were cultivators of the earth, and subject to residence upon their master's estate, though not destitute of property,

or civil rights.* Those who appertained to the demesne lands of the crown were called Fiscalini. The composition for the murder of one of these was much less than that for a freeman.† The number of these servile cultivators was undoubtedly great, yet in those early times, I should conceive, much less than it afterwards became. Property was for the most part in small divisions, and a Frank who could hardly support his family upon a petty alodial patrimony was not likely to encumber himself with many servants. But the accumulation of overgrown private wealth had a natural tendency to make slavery more frequent. Where the small proprietors lost their lands by mere rapine, we may believe that their liberty was hardly less endangered.‡ Even where this was not the case, yet, as the labour either of artisans or of free husbandmen was but sparingly in demand,

* These passages are too numerous for reference. In a very early charter in Martenne's Thesaurus Anecdotorum, t. i. p. 20. lands are granted, cum hominibus ibidem permanentibus, quos *colonario ordine vivere* constituimus. Men of this class were called in Italy Aldiones. A Lombard capitulary of Charlemagne says: Aldiones eâ lege vivunt in Italiâ sub servitute dominorum suorum, quâ Fiscalini, vel Lidi vivunt in Franciâ.—Muratori, Dissert. 14.

† Originally it was but 45 solidi. Leges Salicæ, c. 43. but Charlemagne raised it to 100. Baluzii Capitularia, p. 402. There are several provisions in the laws of this great and wise monarch in favour of liberty. If a lord claimed any one either as his villein or slave, (colonus sive servus,) who had escaped beyond his territory, he was not to be given up till strict inquiry had been made in the place to which he was asserted to belong, as to his condition, and that of his family. p. 400. And if the villein shewed a charter of enfranchisement, the proof of its forgery was to lie upon the lord. No man's liberty could be questioned in the Hundred-court.

‡ Montesquieu ascribes the increase of personal servitude in France to the continual revolts and commotions under the two first dynasties, l. xxx. c. 11.

they were often compelled to exchange their liberty for bread.* In seasons also of famine, and they were not unfrequent, many freemen sold themselves to slavery. A capitulary of Charles the Bald in 864 permits their redemption at an equitable price.† Others became slaves, as more fortunate men became vassals, to a powerful lord, for the sake of his protection. Many were reduced into this state through inability to pay those pecuniary compositions for offences, which were numerous and sometimes heavy in the barbarian codes of law; and many more by neglect of attendance on military expeditions of the king, the penalty of which was a fine called Heribann, with the alternative of perpetual servitude.‡ A source of loss of liberty which may strike us as more extraordinary was superstition; men were infatuated enough to surrender themselves, as well as their properties, to churches and monasteries, in return for such benefits as they might reap by the prayers of their new masters.§

The characteristic distinction of a villein was his obligation to remain upon his lord's estate. He was not only precluded from selling the lands upon which he dwelt; but his person was bound, and the lord might reclaim him at any time, by

* Du Cange, v. Obnoxatio.

† Baluzii Capitularia. The Greek traders purchased famished wretches on the coasts of Italy, whom they sold to the Saracens. Muratori, Annali d'Italia. A.D. 785. Much more would persons in this extremity sell themselves to neighbouring lords.

‡ Du Cange, Heribannum. A full heribannum was 60 solidi; but it was sometimes assessed in proportion to the wealth of the party.

§ Beaumanoir, c. 45.

suit in a court of justice, if he ventured to stray. But, equally liable to this confinement, there were two classes of villeins, whose condition was exceedingly different. In England, at least from the reign of Henry II., one only, and that the inferior species, existed; incapable of property, and destitute of redress, except against the most outrageous injuries.* The lord could seize whatever they acquired or inherited, or convey them, apart from the land, to a stranger. Their tenure bound them to what were called villein services, ignoble in their nature, and indeterminate in their degree; the felling of timber, the carrying of manure, the repairing of roads for their lord, who seems to have possessed an equally unbounded right over their labour and its fruits. But by the customs of France and Germany, persons in this abject state seem to have been called serfs, and distinguished from villeins, who were only bound to fixed payments and duties in respect of their lord, though, as it seems, without any legal redress, if injured by him.†

* Littleton, l. ii. c. 11. Non potest aliquis, (says Glanvil,) in villenagio positus, libertatem suam propriis denariis suis quærere—quia omnia catalla cujuslibet nativi intelliguntur esse in potestate domini sui. l. v. c. 5.

† This is clearly expressed in a French law book of the thirteenth century, the Conseil of Pierre des Fontaines, quoted by Du Cange, voc. Villanus. Et sache bien que selon Dieu tu n'as mie pleniere poesté sur ton vilain. Dont se tu prens du sien fors les droites redevances, que te doit, tu les prens contre Dieu, et sur le peril de t' ame et come robierres. Et ce qu'on dit toutes les choses que vilains a, sont au Seigneur, c'est voirs a garder. Car s'il estoient son seigneur propre, il n'avoit nule difference entre serf et vilain, mais par notre usage n'a entre toi et ton vilain juge fors Dieu, tant com il est tes couchans et tes levans, s'il n'a autre loi vers toi fors la commune. This seems to render the distinction little more than theoretical.

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"The third estate of men," says Beaumanoir, in the passage above quoted, "is that of such as are not free; and these are not all of one condition, for some are so subject to their lord that he may take all they have, alive or dead, and imprison him whenever he pleases, being accountable to none but God; while others are treated more gently, from whom the lord can take nothing but customary payments, though at their death all they have escheats to him."*

Under every denomination of servitude, the children followed their mother's condition; except in England, where the father's state determined that of the children; on which account bastards of female villeins were born free; the law presuming the liberty of their father.† The propor-

* Beaumanoir, c. 45. Du Cange, Villanus, Servus, and several other articles. Schmidt, Hist. des Allemands, t. ii. p. 171. 435. By a law of the Lombards, a free woman who married a slave might be killed by her relations, or sold; if they neglected to do so, the fisc might claim her as its own. Muratori, Dissert. 14. In France also, she was liable to be treated as a slave. Marculfi Formulæ, l. ii. 29. Even in the twelfth century, it was the law of Flanders, that whoever married a villein became one himself, after he had lived with her a twelvemonth. Recueil des Historiens, t. xiii. p. 350. And, by a capitulary of Pepin, if a man married a villein believing her to be free, he might repudiate her and marry another. Baluze, p. 181.

Villeins themselves could not marry without the lord's license, under penalty of forfeiting their goods, or at least of a mulct. Du Cange, v. Forismaritagium. This seems to be the true origin of the famous mercheta mulierum, which has been ascribed to a very different custom. Du Cange, v. Mercheta Mulierum. Dalrymple's Annals of Scotland, vol. i. p. 312. Archæologia, vol. xii. p. 31.

† Littleton, s. 188. Bracton indeed holds, that the spurious issue of a neif, though by a free father, should be a villein, quia sequitur conditionem matris, quasi vulgo conceptus. l. i. c. 6. But the laws of Henry I. declare, that a son should follow his father's condition; so that this peculiarity is very ancient in our law. Leges Hen. I. c. 75. and 77.

tion of freemen, therefore, would have been miserably diminished, if there had been no reflux of the tide, which ran so strongly towards slavery. But the usage of manumission made a sort of circulation between these two states of mankind. This, as is well known, was an exceedingly common practice with the Romans; and is mentioned, with certain ceremonies prescribed, in the Frankish and other early laws. The clergy, and especially several popes, enforced it as a duty upon laymen; and inveighed against the scandal of keeping Christians in bondage.* But they were not, it is said, equally ready in performing their own parts: the villeins upon church lands were among the last who were emancipated.† As society advanced in Europe, the manumission of slaves grew more frequent.‡ By the indulgence of custom in some places, or perhaps by original convention, villeins might possess property, and thus purchase their

General abolition of villenage.

* Enfranchisements by testament are very common. Thus, in the will of Seniofred, count of Barcelona, in 966, we find the following piece of corrupt Latin: de ipsos servos meos et ancillas, illi qui traditi fuerunt faciatis illos liberos propter remedium animæ meæ; et alii qui fuerunt de parentorum meorum remaneant ad fratres meos. Marca Hispanica, p. 887.

† Schmidt, Hist. des All. t. i. p. 361. See however a charter of manumission from the chapter of Orleans, in 1224, to all their slaves, under certain conditions of service. Martenne, Thesaurus Anecdot. t. i. p. 914. Conditional manumissions were exceedingly common. Du Cange, v. Manumissio; a long article.

‡ No one could enfranchise his villein without the superior lord's consent; for this was to diminish the value of his land, *apeticer le fief*. Beaumanoir, c. 15. Etablissemens de St. Louis, c. 34. It was necessary therefore for the villein to obtain the suzerain's confirmation; otherwise he only changed masters and escheated, as it were, to the superior; for the lord who had granted the charter of franchise was *estopped* from claiming him again.

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own redemption. Even where they had no legal title to property, it was accounted inhuman to divest them of their little possession, (the peculium of Roman law;) nor was their poverty, perhaps, less tolerable upon the whole, than that of the modern peasantry in most countries of Europe. It was only in respect of his lord, it must be remembered, that the villein, at least in England, was without rights;* he might inherit, purchase, sue in the courts of law; though, as defendant in a real action, or suit wherein land was claimed, he might shelter himself under the plea of villenage. The peasants of this condition were sometimes made use of in war, and rewarded with enfranchisement; especially in Italy, where the cities and petty states had often occasion to defend themselves with their whole population; and in peace the industry of free labourers must have been found more productive and better directed. Hence the eleventh and twelfth centuries saw the number of slaves in Italy begin to decrease; early in the fifteenth, a writer quoted by Muratori

* Littleton, s. 189. Perhaps this is not applicable to other countries. Villeins were incapable of being received as witnesses against freemen. Recueil des Historiens, t. xiv. préface, p. 65. There are some charters of kings of France admitting the serfs of particular monasteries to give evidence, or to engage in the judicial combat, against freemen. Ordonnances des Rois, t. i. p. 3. But I do not know that their testimony, except against their lord, was ever refused in England; their state of servitude not being absolute, like that of negroes in the West Indies, but particular and relative, as that of an apprentice or hired servant. This subject, however, is not devoid of obscurity, and I may probably return to it in another place.

speaks of them as no longer existing.* The greater part of the peasants in some countries of Germany had acquired their liberty before the end of the thirteenth century; in other parts, as well as in all the northern and eastern regions of Europe, they remained in a sort of villenage till the present age. Some very few instances of predial servitude have been discovered in England, so late as the time of Elizabeth,† and perhaps they might be traced still lower. Louis Hutin, in France, after innumerable particular instances of manumission had taken place, by a general edict in 1315, reciting that his kingdom is denominated the kingdom of the Franks, that he would have the fact to correspond with the name, emancipates all persons in the royal domains upon paying a just composition, as an example for other lords possessing villeins to follow.‡ Philip the Long renewed the same edict three years afterwards; a proof that it had not been carried into execution.§ Indeed there are letters of the former prince, wherein, considering that many of his subjects are not apprized of the extent of the benefit conferred upon them, he directs his officers to tax them as high as their fortunes can well bear.‖

* Dissert. 14.

† Barrington's Observations on the ancient Statutes, p. 274.

‡ Ordonnances des Rois, t. i. p. 583.

§ Id. p. 653.

‖ Velly, t. viii. p. 38. Philip the Fair had emancipated the villeins in the royal domains throughout Languedoc, retaining only an annual rent for their lands, which thus became *censives*, or *emphyteuses*. It does not appear by the charter, that he sold this enfranchisement, though there can be little doubt about it. He permitted his

It is deserving of notice that a distinction existed from very early times in the nature of lands, collateral, as it were, to that of persons. Thus we find mansi ingenui and mansi serviles in the oldest charters, corresponding to the bocland and folkland of the Anglo-Saxons, the liberum tenementum and villenagium, or freehold and copyhold of our later law. In France, all lands held in *roture*

vassals to follow the example. Vaissette, Hist. de Languedoc, t. iv. Appendix, p. 3. and 12.

It is not generally known, I think, that predial servitude was not abolished in all parts of France till the revolution. In some places, says Pasquier, the peasants are taillables à volonté, that is, their contribution is not permanent, but assessed by the lord with the advice of prud' hommes, resseants sur les lieux, according to the peasant's ability. Others pay a fixed sum. Some are called serfs de poursuite, who cannot leave their habitations, but may be followed by the lord into any part of France for the taille upon their goods. This was the case in part of Champagne, and the Nivernois. Nor could these serfs, or gens de mainmorte, as they were sometimes called, be manumitted without letters patent of the king, purchased by a fine. Recherches de la France, l. iv. c. 5. Du Bos informs us, that in 1651, the Tiers Etat prayed the king to cause all serfs (*hommes de poote*) to be enfranchised on paying a composition; but this was not complied with, and they existed in many parts when he wrote. Histoire Critique, t. iii. p. 298. Argou, in his Institutions du Droit François, confirms this, and refers to the customaries of Nivernois and Vitry. l. i. c. 1. And M. de Bréquigny, in his preface to the twelfth volume of the collection of Ordonnances, p. 22. says that throughout almost the whole jurisdiction of the parliament of Besançon, the peasants were attached to the soil, not being capable of leaving it without the lord's consent; and that in some places he even inherited their goods in exclusion of the kindred. I recollect to have read in some part of Voltaire's correspondence, an anecdote of his interference, with that zeal against oppression, which is the shining side of his moral character, in behalf of some of these wretched slaves of Franche-comté.

About the middle of the fifteenth century, some Catalonian serfs who had escaped into France being claimed by their lords, the parliament of Toulouse declared, that every man who entered the kingdom, *en criant France*, should become free. The liberty of our kingdom is such, says Mezeray, that its air communicates freedom to those who breathe it, and our kings are too august to reign over any but freemen. Villaret, t. xv. p. 348. How much pretence Mezeray had for such a flourish, may be decided by the former part of this note.

appear to be considered as villein tenements, and are so termed in Latin, though many of them rather answer to our socage freeholds. But, although originally this servile quality of lands was founded on the state of their occupiers, yet there was this particularity, that lands never changed their character along with that of the possessor; so that a nobleman might, and often did, hold estates in roture, as well as a roturier acquire a fief. Thus in England the terre tenants in villenage, who occur in our old books, were not villeins, but freemen holding lands which had been from time immemorial of a villein quality.

Comparative state of France and Germany.

At the final separation of the French from the German side of Charlemagne's empire by the treaty of Verdun in 843, there was perhaps hardly any difference in the constitution of the two kingdoms. If any might be conjectured to have existed, it would be a greater independence, and fuller rights of election in the nobility and people of Germany. But in the lapse of another century, France had lost all her political unity, and her kings all their authority; while the Germanic empire was entirely unbroken, under an effectual, though not absolute, controul of its sovereign. No comparison can be made between the power of Charles the Simple and Conrad the First, though the former had the shadow of an hereditary right, and the latter was chosen from among his equals. A long succession of feeble princes or usurpers, and destructive incursions of the Normans, reduced France almost to a dissolution of

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society; while Germany, under Conrad, Henry, and the Othos, found their arms not less prompt and successful against revolted vassals, than external enemies. The high dignities were less completely hereditary than they had become in France; they were granted indeed pretty regularly, but they were solicited as well as granted; while the chief vassals of the French crown assumed them as patrimonial sovereignties, to which a royal investiture gave more of ornament than sanction.

In the eleventh century, these imperial prerogatives began to lose part of their lustre. The long struggles of the princes and clergy against Henry IV. and his son, the revival of more effective rights of election on the extinction of the house of Franconia, the exhausting contests of the Swabian emperors in Italy, the intrinsic weakness produced by a law of the empire, according to which the reigning sovereign could not retain an imperial fief more than a year in his hands, gradually prepared that independence of the German aristocracy, which reached its height about the middle of the thirteenth century. During this period the French crown had been insensibly gaining strength; and as one monarch degenerated into the mere head of a confederacy, the other acquired unlimited power over a solid kingdom.

It would be tedious, and not very instructive, to follow the details of German public law during the middle ages: nor are the more important parts of it easily separable from civil history. In this

relation, they will find a place in a subsequent chapter of the present work. France demands a more minute attention; and in tracing the character of the feudal system in that country, we shall find ourselves developing the progress of a very different polity.

Privileges of the French vassals.

To understand in what degree the peers and barons of France, during the prevalence of feudal principles, were independent of the crown, we must look at their leading privileges. These may be reckoned: 1. The right of coining money; 2. That of waging private war; 3. The exemption from all public tributes, except the feudal aids; 4. The freedom from legislative controul; and, 5. The exclusive exercise of original judicature in their dominions. Privileges so enormous and so contrary to all principles of sovereignty might lead us, in strictness, to account France rather a collection of states, partially allied to each other, than a single monarchy.

Coining money.

I. Silver and gold were not very scarce in the first ages of the French monarchy; but they passed more by weight than by tale. A lax and ignorant government, which had not learned the lucrative mysteries of a royal mint, was not particularly solicitous to give its subjects the security of a known stamp in their exchanges.* In some

* The practice of keeping fine gold and silver uncoined prevailed among private persons, as well as in the treasury, down to the time of Philip the Fair. Nothing is more common than to find, in the instruments of earlier times, payments or fines stipulated by weight of gold or silver. Le Blanc therefore thinks, that little money was coined in France, and that only for small payments. Traité des Monnoyes. It is curious, that though there are many gold coins

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cities of France, money appears to have been coined by private authority before the time of Charlemagne; at least one of his capitularies forbids the circulation of any that had not been stamped in the royal mint. His successors indulged some of their vassals with the privilege of coining money for the use of their own territories, but not without the royal stamp. About the beginning of the tenth century, however, the lords, among their other assumptions of independence, issued money with no marks but their own.* At the accession of Hugh Capet, as many as a hundred and fifty are said to have exercised this power. Even under St. Louis, it was possessed by about eighty; who, excluding, as far as possible, the royal coin from circulation, enriched themselves at their subjects' expense by high duties (seigniorages), which they imposed upon every new coinage, as well as by debasing its standard.† In 1185, Philip Augustus requests the abbot of Corvey, who had desisted from using his own mint, to let the royal money of Paris circulate through his territories; promising that when it should please the abbot to coin money afresh for himself, the king would not oppose its circulation.‡

extant of the first race of kings, yet few or none are preserved of the second or third, before the reign of Philip the Fair. Du Cange, v. Moneta.

* Vaissette, Hist. de Languedoc, t. ii. p. 110. Rec. des Historiens, t. xi. préf. p. 180. Du Cange, v. Moneta.

† Le Blanc, Traité des Monnoyes, p. 91.

‡ Du Cange, voc. Moneta. Velly, Hist. de France, t. ii. p. 93. Villaret, t. xiv. p. 200.

Several regulations were made by Louis IX. to limit, as far as lay in his power, the exercise of this baronial privilege; and, in particular, by enacting that the royal money should circulate in the domains of those barons who had mints, concurrently with their own; and exclusively within the territories of those who did not enjoy that right. Philip the Fair established royal officers of inspection in every private mint. It was asserted in his reign, as a general truth, that no subject might coin silver money.* In fact, the adulteration practised in those baronial mints had reduced their pretended silver to a sort of black metal, as it was called, (moneta nigra) into which little entered but copper. Silver, however, and even gold were coined by the dukes of Britany so long as that fief continued to exist. No subjects ever enjoyed the right of coining silver in England without the royal stamp and superintendence:† a remarkable proof of the restraint in which the feudal aristocracy was always held in this country.

* Du Cange, v. Moneta. The right of debasing the coin was also claimed by this prince as a choice flower of his crown. Item, abaisser et amenuser la monnoye, est privilege especial au roy de son droit royal, si que a luy appartient, et non a autre, et encore en un seul cas, c'est a scavoir en necessité, et lors ne vient pas le ganeg ne convertit en son profit especial, mais en profit, et en la defence du commun. This was in a process commenced by the king's procureur général against the comte de Nevers, for defacing his coin. Le Blanc, Traité des Monnoyes, p. 92. In many places the lord took a sum from his tenants every three years, under the name of monetagium or focagium, in lieu of debasing his money. This was finally abolished in 1380. Du Cange, v. Monetagium.

† I do not extend this to the *fact*; for in the anarchy of Stephen's reign, both bishops and barons coined money for themselves. Hoveden, p. 490.

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Right of private war.

II. The passion of revenge, always among the most ungovernable in human nature, acts with such violence upon barbarians, that it is utterly beyond the controul of their imperfect arrangements of polity. It seems to them no part of the social compact, to sacrifice the privilege which nature has placed in the arm of valour. Gradually, however, these fiercer feelings are blunted, and another passion, hardly less powerful than resentment, is brought to play in a contrary direction. The earlier object accordingly of jurisprudence is to establish a fixed atonement for injuries, as much for the preservation of tranquillity as the prevention of crime. Such were the weregilds of the barbaric codes, which, for a different purpose, I have already mentioned.* But whether it were that the kindred did not always accept, or the criminal offer, the legal composition, or that other causes of quarrel occurred, private feuds (faida) were perpetually breaking out, and many of Charlemagne's capitularies are directed against them. After his time, all hope of restraining so inveterate a practice was at an end; and every man who owned a castle to shelter him in case of defeat, and a sufficient number of dependents to take the field, was at liberty to retaliate upon his neighbours whenever he thought himself injured. It must be kept in mind, that there was, frequently,

* The antiquity of compositions for murder is illustrated by Iliad Σ. 498. where, in the description of the shield of Achilles, two disputants are represented wrangling before the judge, for the weregild, or price of blood; ἐπὶ ποινῇ ἀνδρὸς ἀποφθιμένοιο.

either no jurisdiction to which he could appeal, or no power to inforce its awards; so that we may consider the higher nobility of France as in a state of nature with respect to each other, and entitled to avail themselves of all legitimate grounds of hostility. The right of waging private war was moderated by Louis IX., checked by Philip IV., suppressed by Charles VI., but a few vestiges of its practice may be found still later.*

Immunity from taxation. Revenues of kings of France.

III. In the modern condition of governments, taxation is a chief engine of the well-compacted machinery which regulates the system. The payments, the prohibitions, the licences, the watchfulness of collection, the evasions of fraud, the penalties and forfeitures, that attend a fiscal code of laws, present continually to the mind of the most remote and humble individual, the notion of a supreme, vigilant, and coercive authority. But the early European kingdoms knew neither the necessities, nor the ingenuity of modern finance. From their demesne lands, the kings of France

* The subject of private warfare is treated so exactly and perspicuously by Robertson, that I should only waste the reader's time by dwelling so long upon it as its extent and importance would otherwise demand. See Hist. of Charles V. vol. i. note 21. Few leading passages in the monuments of the middle ages, relative to this subject, have escaped the penetrating eye of that historian: and they are arranged so well as to form a comprehensive treatise in small compass. I know not that I could add any much worthy of notice, unless it be the following. In the treaty between Philip Augustus and Richard Cœur de Lion, (1194) the latter refused to admit the insertion of an article, that none of the barons of either party should molest the other; lest he should infringe the customs of Poitou and his other dominions, in quibus consuetum erat ab antiquo, ut magnates causas proprias invicem gladiis allegarent. Hoveden, p. 741. (in Saville, Script. Anglic.)

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and Lombardy supplied the common expenses of a barbarous court. Even Charlemagne regulated the œconomy of his farms with the minuteness of a steward, and a large proportion of his capitularies are directed to this object. Their actual revenue was chiefly derived from free gifts made, according to an ancient German custom, at the annual assemblies* of the nation, from amercements paid by alodial proprietors for default of military service, and from the freda, or fines accruing to the judge out of compositions for murder.† These amounted to one third of the whole weregild; one third of this was paid over by the count to the royal exchequer. After the feudal government prevailed in France, and neither the heribannum nor the weregild continued in use, there seems to have been hardly any source of regular revenue besides the domanial estates of the crown: unless we may reckon as such, that during a journey, the king had a prescriptive right to be supplied with necessaries by the towns and abbies through which he passed; commuted sometimes into petty regular payments, called droits de giste et de chevauché.‡ Hugh Capet was nearly indigent as king of France; though, as

* Du Cange, Dissertation quatrième sur Joinville.

† Mably, l. i. c. 2. note 3. Du Cange, voc. Heribannum, Fredum.

‡ Velly, t. ii. p. 329. Villaret, t. xiv. p. 174—195. Recueil des Historiens, t. xiv. préface, p. 37. The last is a perspicuous account of the royal revenue in the twelfth century. But far the most luminous view of that subject, for the three next ages, is displayed by M. de Pastoret, in his prefaces to the fifteenth and sixteenth volumes of the Ordonnances des Rois.

count of Paris and Orleans, he might take the feudal aids and reliefs of his vassals. Several other small emoluments of himself and his successors, whatever they may since have been considered, were in that age rather seigniorial than royal. The rights of toll, of customs, of alienage (aubaine), generally even the regale, or enjoyment of the temporalities of vacant episcopal sees and other ecclesiastical benefices,* were possessed within their own domains by the great feudataries of the crown. They, I apprehend, contributed nothing to their sovereign; not even those aids which the feudal customs enjoined.†

Exactions from the Jews.

The history of the royal revenue in France is, however, too important to be slightly passed over. As the necessities of government increased, partly through the love of magnificence and pageantry; introduced by the crusades and the temper of chivalry, partly in consequence of employing hired troops instead of the feudal militia, it became impossible to defray its expenses by the ordinary means. Several devices, therefore, were tried, in order to replenish the exchequer. One of these was by extorting money from the Jews. It is almost incredible to what a length this was carried.

* The duke of Burgundy and count of Champagne did not possess the regale. But it was enjoyed by all the other peers; by the dukes of Normandy, Guienne, and Britany; the counts of Toulouse, Poitou, and Flanders. Mably, l iii. c. 4. Recueil des Historiens, t. ii. p. 229. and t. xiv. p. 53. Ordonnances des Rois, t. i. p. 621.

† I have never met with any instance of a relief, aid, or other feudal contribution paid by the vassals of the French crown; but in this negative proposition it is possible that I may be deceived.

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Usury, forbidden by law and superstition to Christians, was confined to this industrious and covetous people.* It is now no secret, that all regulations interfering with the interest of money render its terms more rigorous and burthensome. The children of Israel grew rich in despite of insult and oppression, and retaliated upon their Christian debtors. If an historian of Philip Augustus may be believed, they possessed almost one half of Paris. Unquestionably they must have had support both at the court and in the halls of justice. The policy of the kings of France was to employ them as a spunge to suck their subjects' money, which they might afterwards express with less odium than direct taxation would incur. Philip Augustus released all Christians in his dominions from their debts to the Jews, reserving a fifth part to himself.† He afterwards expelled the whole nation from France. But they appear to have returned again; whether by stealth, or, as is more probable, by purchasing permission. St. Louis twice banished, and twice recalled the Jews. A series of alternate persecution and tolerance was borne by this extraordinary people with an invincible perseverance, and a talent of accumulating riches which kept pace with their plunderers; till new schemes of finance supplying the turn, they were finally expelled under Charles

* The Jews were celebrated for usury as early as the sixth century. Greg. Turon. l. iv. c. 12. and l. vii. c. 23.

† Rigord, in Du Chesne, Hist. Franc. Script. t. iii. p. 8.

VI. and never afterwards obtained any legal establishment in France.*

Debasement of the coin.

A much more extensive plan of rapine was carried on by lowering the standard of coin. Originally the pound, a money of account, was equivalent to twenty ounces of silver; and divided into twenty pieces of coin (sous), each equal consequently to nearly three shillings and four pence of our new English money.† At the revolution, the money of France had been depreciated in the proportion of seventy-three to one, and the sol was about equal to an English half-penny. This was the effect of a long continuance of fraudulent and arbitrary government. The abuse began under Philip I. in 1103, who alloyed his silver coin with a third of copper. So good an example was not lost upon subsequent princes; till under St. Louis, the mark-weight of silver, or eight ounces, was equivalent to fifty sous of the debased coin. Nevertheless these changes seem hitherto to have produced no discontent; whether it were that a people, neither commercial nor enlightened, did not readily perceive their tendency; or, as has been ingeniously conjectured, that these successive diminutions of the standard were nearly counterbalanced by an augmentation in

* Villaret, t. ix. p. 433. Metz contained, and I suppose still contains, a great many Jews; but Metz was not part of the ancient kingdom.

† Besides this silver coin, there was a golden sol, worth forty pence. Le Blanc thinks the solidi of the Salic law and capitularies mean the latter piece of money. The denarius, or penny, was worth two sous six deniers of modern French coin.

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the value of silver, occasioned by the drain of money during the crusades, with which they were about contemporaneous.* But the rapacity of Philip the Fair kept no measures with the public; and the mark in his reign had become equal to eight livres or a hundred and sixty sous of money. Dissatisfaction and even tumults arose in consequence, and he was compelled to restore the coin to its standard under St. Louis.† His successors practised the same arts of enriching their treasury; under Philip of Valois, the mark was again worth eight livres. But the film had now dropt from the eyes of the people; and these adulterations of money, rendered more vexatious by continued re-coinages of the current pieces, upon which a fee was extorted by the moneyers, shewed in their true light as mingled fraud and robbery.‡

* Villaret, t. xiv. p. 198. The price of commodities, he asserts, did not rise till the time of St. Louis. If this be said on good authority, it is a remarkable fact; but in England we know very little of prices before that period, and I doubt if their history has been better traced in France.

† It is curious, and not perhaps unimportant, to learn the course pursued in adjusting payments upon the restoration of good coin, which happened pretty frequently in the fourteenth century, when the States-General, or popular clamour, forced the court to retract its fraudulent policy. Le Blanc has published several ordinances nearly to the same effect. One of Charles VI. explains the method adopted rather more fully than the rest. All debts incurred since the depreciated coin began to circulate were to be paid in that coin, or according to its value. Those incurred previously to its commencement were to be paid according to the value of the money circulating at the time of the contract. Item, que tous les vrais emprunts faits en deniers sans fraude, se payeront en telle monnoye comme l'on aura emprunté, si elle a plein cours au temps du payement, et sinon, ils payeront en monnoye coursable lors selon la valeur et le prix du marc d'or où d'argent. p. 32.

‡ Continuator Gul. de Nangis in Spicilegio, t. iii. For the successive changes in the value of

Direct taxation.

These resources of government, however, by no means superseded the necessity of more direct taxation. The kings of France exacted money from the roturiers, and particularly the inhabitants of towns, within their domains. In this they only acted as proprietors, or suzerains; and the barons took the same course in their own lands. Philip Augustus first ventured upon a stretch of prerogative, which, in the words of his biographer, disturbed all France. He deprived by force, says Rigord, both his own vassals, who had been accustomed to boast of their immunities, and their feudal tenants, of a third part of their goods.* Such arbitrary taxation of the nobility, who deemed that their military service discharged them from all pecuniary burthens, France was far too aristocratical a country to bear. It seems not to have been repeated; and his successors generally pursued more legitimate courses. Upon obtaining any contribution, it was usual to grant letters patent, declaring that it had been freely given, and should not be turned into precedent in time to come. Several of these letters patent of Philip the Fair are extant, and published in the general collection of ordinances.† But in the reign of this

French coins, the reader may consult Le Blanc's treatise, or the Ordonnances des Rois; or he may find a summary view of them in Du Cange, v. Moneta. The bad consequences of these innovations are well treated by M. de Pastoret, in his elaborate preface to the sixteenth volume of the Ordonnances des Rois, p. 40.

* Du Chesne, t. v. p. 43.

† Fasons scavoir et recognoissons que la derniere subvention que ils nous ont faite (les barons, vassaux et nobles d'Auvergne) de pure grace sans ce que ils y fussent tenus que de grace; et voulons et leur octroyons que les autres subventions que ils nous ont faites ne leur facent nul prejudice, es

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monarch, a great innovation took place in the French constitution, which, though it principally affected the method of levying money, may seem to fall more naturally under the next head of consideration.

Want of supreme legislative authority.

IV. There is no part of the French feudal policy so remarkable as the entire absence of all supreme legislation. We find it difficult to conceive the existence of a political society, nominally one kingdom, and under one head, in which, for more than three hundred years, there was wanting the most essential attribute of government. It will be requisite, however, to take this up a little higher, and inquire what was the original legislature of the French monarchy.

Original legislative assemblies of France.

Arbitrary rule, at least in theory, was uncongenial to the character of the northern nations. Neither the power of making laws, nor that of applying them to the circumstances of particular cases, were left at the discretion of the sovereign. The Lombard kings held assemblies every year at Pavia, where the chief officers of the crown and proprietors of lands deliberated upon all legislative measures, in the presence and, nominally at least, with the consent of the multitude.* Frequent mention is made of similar public meetings in

choses esquelles ils n'étoient tenus, ne par ce nul nouveau droit ne nous soit acquis ne amenuisié. Ordonnance de 1304. apud Mably, l. iv. c. 3. note 5. See other authorities in the same place.

* Luitprand, king of the Lombards, says that his laws sibi placuisse unà cum omnibus judicibus de Austriæ et Neustriæ partibus, et de Tusciæ finibus, cum reliquis fidelibus meis Langobardis, et omni populo assistente. Muratori, Dissert. 22.

France by the historians of the Merovingian kings, and still more unequivocally by their statutes.* These assemblies have been called parliaments of the Champ de Mars, having originally been held in the month of March. We know very little of their constituent members; but it is probable, that every alodial proprietor had a legal right to assist in their deliberations; and at least equally so, that the efficient power was nearly confined to the leading aristocracy. Such indeed is the impression conveyed by a remarkable passage of Hincmar, archbishop of Rheims, during the time of Charles the Bald, who has preserved, on the authority of a writer contemporary with Charlemagne, a sketch of the Frankish government under that great prince. Two assemblies (placita) were annually held. In the first, all regulations of importance to the public weal for the ensuing year were enacted; and to this, he says, the whole body of clergy and laity repaired; the greater, to deliberate upon what was fitting to be done; and the less, to confirm by their voluntary assent, not through deference to power, or sometimes even to discuss, the resolutions of their superiors.† In the

Assemblies held by Charlemagne.

* Mably, l. i. c. 1. note 1. Lindebrog. Codex Legum Antiquarum, p. 363. 369. The following passage, quoted by Mably, (c. ii. n. 6.) from the preamble of the revised Salic law under Clotaire II. is explicit. Temporibus Clotairii regis unà cum principibus suis, id est 33 episcopis et 34 ducibus et 79 comitibus, *vel* cætero populo constituta est. A remarkable instance of the use of *vel* instead of *et*, which was not uncommon, and is noticed by Du Cange, under the word Vel. Another proof of it occurs in the very next quotation of Mably from the edict of 615, cum pontificibus, *vel* cum magnis viris optimatibus.

† Consuetudo tunc temporis talis erat, ut non sæpius, sed bis in anno placita duo tenerentur. Unum,

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second annual assembly, the chief men and officers of state were alone admitted, to consult upon the most urgent affairs of government. They debated, in each of these, upon certain capitularies, or short proposals, laid before them by the king. The clergy and nobles met in separate chambers, though sometimes united for the purposes of deliberation. In these assemblies, principally, I presume, in the more numerous of the two annually summoned, that extensive body of laws, the capitularies of Charlemagne, were enacted. And though it would contradict the testimony just adduced from Hincmar, to suppose that the lesser freeholders took a very effective share in public counsels, yet their presence, and the usage of requiring their assent, indicate the liberal principles upon which the system of Charlemagne was founded. It is continually expressed in his capitularies, and those of his family, that they were enacted by general consent.* In one of Louis the Debonair, we even trace the first germ of repre-

quando ordinabatur status totius regni ad anni vertentis spatium; quod ordinatum nullus eventus rerum, nisi summa necessitas, quæ similiter toti regno incumbebat, mutabat. In quo placito generalitas universorum majorum, tam clericorum quam laicorum, conveniebat; seniores, propter consilium ordinandum; minores, propter idem consilium suscipiendum, et interdum pariter tractandum, et non ex potestate, sed ex proprio mentis intellectu vel sententiâ, confirmandum. Hincmar, Epist. 5. de ordine palatii. I have not translated the word majorum in the above quotation, not apprehending its sense.

* Capitula quæ præterito anno legi Salicæ cum omnium consensu addenda esse censuimus. (A. D. 801.) Ut populus interrogetur de capitulis quæ in lege noviter addita sunt, et postquam omnes consenserint, subscriptiones et manufirmationes suas in ipsis capitulis faciant. (A. D. 813.) Capitularia patris nostri quæ Franci pro lege tenenda judicaverunt. (A. D. 837.) I have borrowed these quotations from Mably, who remarks that the

sentative legislation. Every count is directed to bring with him to the general assembly twelve Scabini, if there should be so many in his county; or, if not, should fill up the number out of the most respectable persons resident. These Scabini were judicial assessors of the count, chosen by the alodial proprietors.*

The circumstances however of the French empire for several subsequent ages were exceedingly adverse to such enlarged schemes of polity. The nobles contemned the imbecile descendants of Charlemagne; and the people, or lesser freeholders, if they escaped absolute villenage, lost their immediate relation to the supreme government in the subordination to their lord established by the feudal law. Yet we may trace the shadow of ancient popular rights in one constitutional function of high importance, the choice of a sovereign. Historians who relate the election of an emperor or king of France seldom omit to specify the consent of the multitude, as well as of the temporal and spiritual aristocracy; and even in solemn instruments that record such transactions, we find a sort of importance attached to the popular suffrage.† It is surely less probable that a recog-

word *populus* is never used in the earlier laws. See too Du Cange, vv. Lex, Mallum, Pactum.

* Vult dominus Imperator ut in tale placitum quale ille nunc jusserit, veniat unusquisque comes, et adducat secum duodecim scabinos si tanti fuerint; sin autem, de melioribus hominibus illius comitatus suppleat numerum duodenarium. Mably, l. ii. c. 2.

† It has been intimated in another place, p. 111. that the French monarchy seems not to have been strictly hereditary under the later kings of the Merovingian race; at least expressions indicating a formal election are fre-

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nition of this elective right should have been introduced as a mere ceremony, than that the form should have survived after length of time and

quently employed by historians. Pepin of course came in by the choice of the nation. At his death he requested the consent of the counts and prelates to the succession of his sons; (Baluzii Capitularia, p. 187.) though they had bound themselves by oath at his consecration, never to elect a king out of another family. Ut nunquam de alterius lumbis regem eligere præsumant. (Formula Consecrationis Pippini in Recueil des Historiens, t. v.) In the instrument of partition by Charlemagne among his descendants, he provides for their immediate succession in absolute terms, without any mention of consent. But in the event of the decease of one of his sons leaving a child, *whom the people shall chuse*, the other princes were to permit him to reign. Baluze, p. 440. This is repeated more perspicuously in the partition made by Louis I. in 817. Si quis eorum decedens legitimos filios reliquerit, non inter eos potestas ipsa dividatur, sed potius populus pariter conveniens, unum ex iis, quem dominus voluerit, eligat, et hunc senior frater in loco fratris et filii recipiat. Baluze, p. 577. Proofs of popular consent given to the succession of kings during the two next centuries are frequent, but of less importance on account of the irregular condition of government. Even after Hugh Capet's accession, hereditary right was far from being established. The first six kings of this dynasty procured the *co-optation* of their sons, by having them crowned during their own lives. And this was not done without the consent of the chief vassals. (Recueil des Hist. t. xi. p. 133.) In the reign of Robert it was a great question, whether the elder son should be thus designated as heir in preference to his younger brother, whom the queen, Constance, was anxious to place upon the throne. Odolric, bishop of Orleans, writes to Fulbert, bishop of Chartres, in terms which lead one to think, that neither hereditary succession, nor primogeniture, was settled on any fixed principle, (Id. t. x. p. 504.) And a writer in the same collection, about the year 1000, expresses himself in the following manner: Melius est electioni principis non subscribere, quàm post subscriptionem electum contemnere; in altero enim libertatis amor laudatur, in altero servilis contumacia probro datur. Tres namque generales electiones novimus; quarum una est regis vel imperatoris, altera pontificis, altera abbatis. Et primam quidem facit concordia totius regni; secundam vero unanimitas civium et cleri; tertiam sanius consilium cœnobiticæ congregationis. (Id. p. 626.) At the coronation of Philip I. in 1059, the nobility and people (milites et populi tam majores quàm minores) testified their consent by crying, Laudamus, volumus, fiat. t. xi. p. 33. I suppose, if search were made, that similar testimonies might be found still later; and perhaps hereditary succession cannot be considered as a fundamental law till the reign of Philip Augustus, the æra of many changes in the French constitution.

revolutions of government had almost obliterated the recollection of its meaning.

It must however be impossible to ascertain even the theoretical privileges of the subjects of Charlemagne, much more to decide how far they were substantial or illusory. We can only assert in general, that there continued to be some mixture of democracy in the French constitution during the reign of Charlemagne and his first successors. The primæval German institutions were not eradicated. In the Capitularies, the consent of the people is frequently expressed. Fifty years after Charlemagne, his grandson Charles the Bald succinctly expresses the theory of legislative power. A law, he says, is made by the people's consent and the king's enactment.* It would hardly be warranted by analogy or precedent, to interpret the word people so very narrowly as to exclude any alodial proprietors, among whom, however unequal in opulence, no legal inequality of rank is supposed to have yet arisen.

But by whatever authority laws were enacted, whoever were the constituent members of national assemblies, they ceased to be held in about seventy years from the death of Charlemagne. The latest capitularies are of Carloman in 882.† From this

* Lex consensu populi fit, constitutione regis. Recueil des Hist. t. vii. p. 656.

† It is generally said, that the capitularies cease with Charles the Simple, who died in 921. But Baluze has published only two under the name of that prince; the first, a declaration of his queen's jointure; the second, an arbitration of disputes in the church of Tongres; neither surely deserving the appellation of a law.

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time there ensues a long blank in the history of French legislation. The kingdom was as a great fief, or rather as a bundle of fiefs, and the king little more than one of a number of feudal nobles, differing rather in dignity than in power from some of the rest. The royal council was composed only of barons, or tenants in chief, prelates, and household officers. These now probably deliberated in private, as we hear no more of the consenting multitude. Political functions were not in that age so clearly separated, as we are taught to fancy they should be; this council advised the king in matters of government, confirmed and consented to his grants, and judged in all civil and criminal cases, where any peers of their court were concerned.* The great vassals of the crown acted for themselves in their own territories, with the assistance of councils similar to that of the king. Such indeed was the symmetry of feudal customs, that the manerial court of every vavassor represented in miniature that of his sovereign.†

Royal council of the third race.

* Regali potentiâ in nullo abuti volentes, says Hugh Cupet, omnia negotia reipublicæ in consultatione et sententiâ fidelium nostrorum disponimus. Recueil des Hist. t. x. p. 392. The subscriptions of these royal counsellors were necessary for the confirmation, or, at least, the authentication of charters, as was also the case in England, Spain, and Italy. This practice continued in England till the reign of John.

The Curia regis seems to have differed only in name from the Concilium regium. It is also called Curia parium, from the equality of the barons who composed it, standing in the same feudal degree of relation to the sovereign. But we are not yet arrived at the subject of jurisdiction, which it is very difficult to keep distinct from what is immediately before us.

† Recueil des Hist. t. xi. p. 300. and préface, p. 179. Vaissette, Hist. de Languedoc, t. ii. p. 508.

Occasional assemblies of barons.

But, notwithstanding the want of any permanent legislation during so long a period, instances occur, in which the kings of France appear to have acted with the concurrence of an assembly, more numerous and more particularly summoned than the royal council. At such a congress held in 1146, the crusade of Louis VII. was undertaken.* We find also an ordinance of the same prince in some collections, reciting that he had convoked a general assembly at Soissons, where many prelates and barons then present had consented and requested, that private wars might cease for the term of ten years.† The famous Saladine tithe was imposed upon lay as well as ecclesiastical revenues by a similar convention in 1188.‡ And when Innocent IV. during his contest with the emperor Frederic, requested an asylum in France, St. Louis, though much inclined to favour him, ventured only to give a conditional permission, provided it were agreeable to his barons, whom, he said, a

* Velly, t. iii. p. 119. This, he observes, is the first instance in which the word parliament is used for a deliberative assembly.

† Ego Ludovicus Dei gratiâ Francorum rex, ad reprimendum fervorem malignantium, et compescendum violentas prædorum manus, postulationibus cleri et assensu baroniæ, toti regno pacem constituimus. Eâ causâ, anno Incarnati Verbi 1155, iv idus Jun. Suessionense concilium celebre adunavimus, et affuerunt archiepiscopi Remensis, Senonensis et eorum suffraganei; item barones, comes Flandrensis, Trecensis, et Nivernensis et quamplures àlii, et dux Burgundiæ. Ex quorum beneplacito ordinavimus a veniente Paschâ ad decem annos, ut omnes ecclesiæ regni et omnes agricolæ etc. pacem habeant et securitatem ——— In pacem istam juraverunt Dux Burgundiæ, Comes Flandriæ, ——— et reliqui barones qui aderant.

This ordinance is published in Du Chesne, Script. Rerum Gallicarum, t. iv. and in Recueil des Histor. t. xiv. p. 387.; but not in the general collection.

‡ Velly, t. iii. p. 315.

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king of France was bound to consult in such circumstances. Accordingly he assembled the French barons, who unanimously refused their consent.*

Cours Plénières.

It was the ancient custom of the kings of France as well as of England, and indeed of all those vassals who affected a kind of sovereignty, to hold general meetings of their barons, called Cours Plénières or Parliaments, at the great festivals of the year. These assemblies were principally intended to make a display of magnificence, and to keep the feudal tenants in good humour; nor is it easy to discover that they passed in any thing but pageantry.† Some respectable antiquaries have however been of opinion, that affairs of state were occasionally discussed in them; and this is certainly by no means inconsistent with probability, though not sufficiently established by evidence.‡

Excepting a few instances, most of which have been mentioned, it does not appear, that the kings of the house of Capet acted according to the advice and deliberation of any national assembly, such as assisted the Norman sovereigns of England; nor was any consent required for the validity of their edicts, except that of the ordinary council, chiefly formed of their household officers and less powerful vassals. This is at first sight very remarkable. For there can be no doubt that the government of Henry I. or Henry II. was incomparably stronger than that of Louis VI. or Louis

* Velly, t. iv. p. 306.

† Du Cange, Dissert. 5. sur Joinville.

‡ Mém. de l'Acad. des Inscript. t. xli. Recueil des Hist. t. xi. préface, p. 155.

VII. But this apparent absoluteness of the latter was the result of their real weakness and the disorganization of the monarchy. The peers of France were infrequent in their attendance upon the king's council, because they denied its coercive authority. It was a fundamental principle, that every feudal tenant was so far sovereign within the limits of his fief, that he could not be bound by any law, without his consent. The king, says St. Louis in his Establishments, cannot make proclamation, that is, declare any new law, in the territory of a baron without his consent, nor can the baron do so in that of a vavassor.* Thus, if legislative power be essential to sovereignty, we cannot in strictness assert the king of France to have been sovereign beyond the extent of his domanial territory. Nothing can more strikingly illustrate the dissimilitude of the French and English constitutions of government, than the sentence above cited from the code of St. Louis.

Limitations of royal power in legislation.

Upon occasions, when the necessity of common deliberation, or of giving to new provisions more extensive scope than the limits of a single fief, was too glaring to be overlooked, congresses of neighbouring lords met in order to agree upon resolutions, which each of them undertook to execute within his own domains. The king was sometimes a contracting party, but without any coercive authority over the rest. Thus we have what is called

Substitutes for legislative authority.

* Ne li Rois ne puet mettre ban en la terre au baron sans son assentment, ne li Bers [Baron] ne puet mettre ban en la terre au vavasor. Ordonnances des Rois, t. i. p. 126.

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an ordinance, but, in reality, an agreement, between the king (Philip Augustus), the countess of Troyes or Champagne, and the lord of Dampierre, (count of Flanders) relating to the Jews in their domains; which agreement or ordinance, it is said, should endure "until ourselves, and the countess of Troyes, and Guy de Dampierre, who make this contract, shall dissolve it with the consent of such of our barons as we shall summon for that purpose."*

Ecclesiastical councils were another substitute for a regular legislature; and this defect in the political constitution rendered their encroachments less obnoxious, and almost unavoidable. That of Troyes in 878, composed perhaps in part of laymen, imposed a fine upon the invaders of church property.† And the council of Toulouse, in 1229, prohibited the erection of any new fortresses, or the entering into any leagues, except against the enemies of religion; and ordained that judges should administer justice gratuitously, and publish the decrees of the council four times in the year.‡

First measures of general legislation.

The first unequivocal attempt, for it was nothing more, at general legislation, was under Louis VIII. in 1223, in an ordinance, which, like several of that age, relates to the condition and usurious dealings of the Jews. It is declared in the preamble

* Quousque nos, et comitissa Trecensis, et Guidò de Domnâ petrâ, qui hoc facimus, per nos, et illos de baronibus nostris, quos ad hoc vocare volumus, illud diffaciamus. Ordonnances des Rois, t. i. p. 39. This ordinance bears no date, but it was probably between 1218 and 1223, the year of Philip's death.

† Vaissette, Hist. de Languedoc, t. ii. p. 6.

‡ Velly, t. iv. p. 132.

to have been enacted, per assensum archiepiscoporum, episcoporum, comitum, baronum, et militum regni Franciæ, qui Judæos habent, et qui Judæos non habent. This recital is probably untrue, and intended to cloak the bold innovation contained in the last clause of the following provision; Sciendum, quod nos et barones nostri statuimus et ordinavimus de statu Judæorum quod nullus nostrûm alterius Judæos recipere potest vel retinere; *et hoc intelligendum est tam de his qui stabilimentum juraverint, quàm de illis qui non juraverint.** This was renewed with some alteration in 1230, de communi consilio baronum nostrorum.†

But whatever obedience the vassals of the crown might pay to this ordinance, their original exemption from legislative controul remained, as we have seen, unimpaired at the date of the Establishments of St. Louis, about 1269; and their ill-judged confidence in this feudal privilege still led them to absent themselves from the royal council. It seems impossible to doubt that the barons of France might have asserted the same right, which those of England had obtained, that of being duly summoned by special writ, and thus have rendered their consent necessary to every measure of legislation. But the fortunes of France were different. The establishments of St. Louis are declared to be made "par grand conseil de sages hommes et de bons clers," but no mention

* Ordonnances des Rois, t. i. p. 47.

† Id. p. 53.

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is made of any consent given by the barons; nor does it often, if ever, occur in subsequent ordinances of the French kings.

Legislative power of the crown increases.

The nobility did not long continue safe in their immunity from the king's legislative power. In the ensuing reign of Philip the Bold, Beaumanoir lays it down, though in very moderate and doubtful terms, that "when the king makes any ordinance specially for his own domains, the barons do not cease to act in their territories according to the ancient usage; but, when the ordinance is general, it ought to run through the whole kingdom, and we ought to believe that it is made with good advice, and for the common benefit."* In another place he says with more positiveness, that "the king is sovereign above all, and has of right the general custody of the realm, for which cause he may make what ordinances he pleases for the common good, and what he ordains ought to be observed; nor is there any one so great but may be drawn into the king's court for default of right or for false judgment, or in matters that affect the sovereign."† These latter words give us a clue to the solution of the problem, by what means an absolute monarchy was established in France. For though the barons would have been little influenced by the authority of a lawyer like Beaumanoir, they were much less able to resist the coercive logic of a judicious tribunal. It was in vain for them to deny the obligation of royal ordi-

Causes of this.

* Coûtumes de Beauvoisis, c. 48. † C. 34.

nances within their own domains, when they were compelled to acknowledge the jurisdiction of the parliament of Paris, which took a very different view of their privileges. This progress of the royal jurisdiction will fall under the next topic of inquiry, and is only now hinted at, as the probable means of confirming the absolute legislative power of the French crown.

The ultimate source however of this increased authority will be found in the commanding attitude assumed by the kings of France from the reign of Philip Augustus, and particularly in the annexation of the two great fiefs of Normandy and Toulouse. Though the châtelains and vavassors who had depended upon those fiefs before their re-union were, agreeably to the text of St. Louis's ordinance, fully sovereign, in respect of legislation, within their territories, yet they were little competent, and perhaps little disposed, to offer any opposition to the royal edicts; and the same relative superiority of force, which had given the first kings of the house of Capet a tolerably effective controul over the vassals dependent on Paris and Orleans, while they hardly pretended to any over Normandy and Toulouse, was now extended to the greater part of the kingdom. St. Louis, in his scrupulous moderation, forbore to avail himself of all the advantages presented by the circumstances of his reign; and his Establishments bear testimony to a state of political society, which, even at the moment of their promulgation, was passing away. The next thirty years after his death, with

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no marked crisis, and with little disturbance, silently demolished the feudal system, such as had been established in France during the dark confusion of the tenth century. Philip the Fair, by help of his lawyers and his financiers, found himself, at the beginning of the fourteenth century, the real master of his subjects.

Convocation of the States General by Philip the Fair.

There was however one essential privilege which he could not hope to overturn by force, the immunity from taxation enjoyed by his barons. This, it will be remembered, embraced the whole extent of their fiefs, and their tenantry of every description; the king having no more right to impose a tallage upon the demesne towns of his vassals, than upon themselves. Thus his resources, in point of taxation, were limited to his own domains; including certainly, under Philip the Fair, many of the noblest cities in France, but by no means sufficient to meet his increasing necessities. We have seen already the expedients employed by this rapacious monarch; a shameless depreciation of the coin, and, what was much more justifiable, the levying taxes within the territories of his vassals by their consent. Of these measures, the first was odious, the second slow and imperfect. Confiding in his sovereign authority, though recently, yet almost completely established, and little apprehensive of the feudal principles, already grown obsolete and discountenanced, he was bold enough to make an extraordinary innovation in the French constitution. This was the convocation of the States General, a

representative body, composed of the three orders of the nation.* They were first convened in 1302,

* It is almost unanimously agreed among French writers, that Philip the Fair first introduced a representation of the towns into his national assembly of States General. Nevertheless, the Chronicles of St. Denis, and other historians of rather a late date, assert that the deputies of towns were present at a parliament in 1241, to advise the king what should be done in consequence of the count of Angouleme's refusal of homage. Boulainvilliers, Hist. de l'Ancien Gouvernement de France, t. ii. p. 20. Villaret, t. ix. p. 125. The latter pretends even that they may be traced a century farther back: on voit déjà les gens de bonnes villes assister aux états de 1145. ibid. But he quotes no authority for this; and his vague language does not justify us in supposing, that any representation of the three estates, properly so understood, did, or indeed could, take place in 1145, while the power of the aristocracy was unbroken, and very few towns had been incorporated. If it be true that the deputies of some royal towns were summoned to the parliament of 1241, the conclusion must not be inferred, that they possessed any consenting voice, nor perhaps that they formed, strictly speaking, an integrant portion of the assembly. There is reason to believe, that deputies from the royal burghs of Scotland occasionally appeared at the bar of parliament, long before they had any deliberative voice. Pinkerton's Hist. of Scotland, vol. i. p. 371.

An ordinance of St. Louis, quoted in a very respectable book, Vaissette's History of Languedoc, t. iii. p. 480. but not published in the Recueil des Ordonnances, not only shews the existence, in one instance, of a *provincial* legislative assembly, but is the earliest proof perhaps of the tiers état appearing as a constituent part of it. This relates to the seneschaussée, or county, of Beaucaire in Languedoc, and bears date in 1254. It provides, that if the seneschal shall think fit to prohibit the export of merchandize, he shall summon some of the prelates, barons, knights, and inhabitants of the chief towns, by whose advice he shall issue such prohibition, and not recall it, when made, without like advice. But though it is interesting to see the progressive importance of the citizens of towns, yet this temporary and insulated ordinance is not of itself sufficient to establish a constitutional right. Neither do we find therein any evidence of representation; it rather appears that the persons assisting in this assembly were *notables*, selected by the seneschal.

I am not aware of any instance of regular provincial estates being summoned with such full powers, although it was very common in the fourteenth century to ask their consent to grants of money, when the court was unwilling to convoke the States General. Yet there is a passage in a book of considerable credit, the Grand Customary, or Somme Rurale of Bouteiller, which seems to render general the particular case of the seneschaussée of Beaucaire. Bouteiller wrote about the end of the fourteenth century. The great courts summoned from time to time by the baillis and seneschals were called

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in order to give more weight to the king's cause, in his great quarrel with Boniface VIII.; but their earliest grant of a subsidy is in 1314. Thus the nobility surrendered to the crown their last privilege of territorial independence; and having first submitted to its appellant jurisdiction over their tribunals, next to its legislative supremacy, now suffering their own dependents to become, as it were, immediate, and a Third Estate to rise up almost co-ordinate with themselves, endowed with new franchises, and bearing a new relation to the monarchy.

It is impossible not to perceive the motives of Philip in embodying the deputies of towns, as a separate estate in the national representation. He might, no question, have convoked a parliament of his barons, and obtained a pecuniary contribution which they would have levied upon their burgesses and other tenants. But besides the ulterior policy of diminishing the controul of the barons over

assises. Their usual function was to administer justice, especially by way of appeal, and perhaps to redress abuses of inferior officers. But he seems to give them a more extended authority. En assise, he says, appellés les sages et seigneurs du pais, peuvent estre mises sus nouvelles constitutions, et ordonnances sur le pais et destruites autre que seront grevables, *et un autre temps non*, et doivent etre publiées, afin que nul ne les pueust ignorer, et lors ne les peut ne doit jamais nul redarguer.—Mém. de l'Acad. des Inscriptions, t. xxx. p. 606.

The taille was assessed by respectable persons chosen by the advice of the parish priests and others, which gave the people a sort of share in the *repartition*, to use a French term, of public burthens; a matter of no small importance, where a tax is levied on visible property. Ordonnances des Rois, p. 291. Beaumanoir, p. 269. This however continued, I believe, to be the practice in later times; I know it is so in the present system of France; and is perfectly distinguishable from a popular consent to taxation.

their dependents, he had good reason to expect more liberal aid from the immediate representatives of the people, than through the concession of a dissatisfied aristocracy. He must be blind indeed, says Pasquier, who does not see that the roturier was expressly summoned to this assembly, contrary to the ancient institutions of France, for no other reason, than that, inasmuch as the burthen was intended to fall principally upon him, he might engage himself so far by promise, that he could not afterwards murmur or become rafractory.* Nor would I deny the influence of more generous principles; the example of neighbouring countries, the respect due to the progressive civilization and opulence of the towns, and the application of that ancient maxim of the northern monarchies, that whoever was elevated to the perfect dignity of a freeman, acquired a claim to participate in the imposition of public tributes.

Rights of the States General as to taxation.

It is very difficult to ascertain the constitutional rights of the States General, claimed or admitted, during forty years after their first convocation. If indeed we could implicitly confide in an historian of the sixteenth century, who asserts that Louis Hutin bound himself and his successors not to levy any tax without the consent of the three estates, the problem would find its solution.† This ample charter does not appear in the French archives; and though by no means to be rejected

* Recherches de la France, l. ii. c. 7.

† Boulainvilliers (Hist. de l'Anc. Gouvernement, t. ii. p. 128.) refers for this to Nicholas Gilles, a chronicler of no great repute.

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on that account, when we consider the strong motives for its destruction, cannot fairly be adduced as an authentic fact. Nor can we altogether infer, perhaps, from the collection of ordinances, that the crown had ever intentionally divested itself of the right to impose tallages on its domanial tenants. All others, however, were certainly exempted from that prerogative; and there seems to have been a general sentiment, that no tax whatever could be levied without free consent of the estates.* Louis Hutin, in a charter granted to the nobles and burgesses of Picardy, promises to abolish the unjust taxes (maltotes) imposed by his father;† and in another instrument, called the charter of Normandy, declares that he renounces for himself and his successors all undue tallages and exactions, except in case of evident utility.‡ This exception is doubtless of perilous ambiguity; yet as the charter was literally wrested from the king by an insurrectionary league, it might be expected that the same spirit would rebel against his royal intrepretation of state-necessity. His successor, Philip the Long, tried the experiment of a gabelle, or excise upon salt. But it produced so much discontent, that he was compelled to assemble the States General, and to publish an

* Mably, Observat. sur l'Hist. de France, l. v. c. 1. is positive against the right of Philip the Fair and his successors to impose taxes. Montlosier (Monarchie Française, t. i. p. 202.) is of the same opinion. In fact, there is reason to believe, that the kings in general did not claim that prerogative absolutely, whatever pretexts they might set up for occasional stretches of power.

† Ordonnances des Rois, t. i. p. 566.

‡ Idem, t. i. p. 589.

ordinance declaring that the impost was not designed to be perpetual, and that, if a sufficient supply for the existing war could be found elsewhere, it should instantly determine.* Whether this was done, I do not discover; nor do I conceive, that any of the sons of Philip the Fair, inheriting much of his rapacity and ambition, abstained from extorting money without consent. Philip of Valois renewed and augmented the duties on salt by his own prerogative, nor had the abuse of debasing the current coin been ever carried to such a height as during his reign, and the first years of his successor. These exactions, aggravated by the smart of a hostile invasion, produced a very remarkable concussion in the government of France.

States General of 1355 and 1356.

I have been obliged to advert in another place to the memorable resistance made by the Estates General of 1355 and 1356 to the royal authority, on account of its inseparable connexion with the civil history of France.† In the present chapter, the assumption of political influence by those assemblies deserves particular notice. Not that they pretended to restore the ancient constitution of the northern nations, still flourishing in Spain and England, the participation of legislative power with the crown. Five hundred years of anarchy and ignorance had swept away all remembrance of those general diets, in which the capitularies of the Carlovingian dynasty had been established by

* Ordonnances des Rois, t. i. p. 679. † Chap. i. p. 76.

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common consent. Charlemagne himself was hardly known to the French of the fourteenth century, except as the hero of some silly romance or ballad. The States General remonstrated indeed against abuses, and especially the most flagrant of all, the adulteration of money; but the ordinance granting redress emanated altogether from the king, and without the least reference to their consent, which sometimes appears to be studiously omitted.* But the privilege upon which the States under John solely relied for securing the redress of grievances, was that of granting money, and of regulating its collection. The latter, indeed, though for convenience it may be devolved upon the executive government, appears to be incident to every assembly in which the right of taxation resides. That accordingly which met in 1355 nominated a committee chosen out of the three orders, which was to sit after their separation, and which the king bound himself to consult, not only as to the internal arrangements of his administration, but upon every proposition of peace or armistice with England. Deputies

* The proceedings of States General held under Philip IV. and his sons have left no trace in the French statute-book. Two ordinances alone out of some hundred enacted by Philip of Valois appear to have been founded upon their suggestions.

It is absolutely certain, that the States General of France had, at no period and in no instance, a co-ordinate legislative authority with the crown, or even a consenting voice. Mably, Boulainvilliers, and Montlosier, are as decisive on this subject, as the most courtly writers of that country. It follows as a just consequence, that France never possessed a free constitution; nor had the monarchy any limitations in respect of enacting laws, save those which, until the reign of Philip the Fair, the feudal principles had imposed.

were dispatched into each district, to superintend the collection, and receive the produce of the subsidy granted by the States.* These assumptions of power would not long, we may be certain, have left the sole authority of legislation in the king, and might perhaps be censured as usurpation, if the peculiar emergency in which France was then placed did not furnish their defence. But, if it be true that the kingdom was reduced to the utmost danger and exhaustion, as much by malversation of its government, as by the armies of Edward III., who shall deny to its representatives the rights of ultimate sovereignty, and of suspending at least the royal prerogatives, by the abuse of which they were falling into destruction?† I confess that it is exceedingly difficult, or perhaps impracticable, with such information as we possess, to decide upon the motives and conduct of the States General, in their several meetings before and after the battle of Poitiers. Arbitrary power prevailed; and its opponents became of course the theme of obloquy with modern historians. Froissart, however, does not seem to impute any fault to these famous assemblies of the States General; and still less a more contemporary his-

* Ordonnances des Rois, t. iii. p. 21. and préface, p. 42. This preface by M. Sécousse, the editor, gives a very clear view of the general and provincial assemblies held in the reign of John. Boulainvilliers, Hist. de l'Ancien Gouvernement de France, t. ii. or Villaret, t. ix. may be perused with advantage.

† The second continuator of Nangis in the Spicilegium dwells on the heavy taxes, diminution of money, and general oppressiveness of government in this age, t. iii, p. 108.

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torian, the anonymous continuator of Nangis. Their notices, however, are very slight; and our chief knowledge of the parliamentary history of France, if I may apply the expression, must be collected from the royal ordinances made upon these occasions, or from unpublished accounts of their transactions. Some of these, which are quoted by the later French historians, are of course inaccessible to a writer in this country. But a manuscript in the British Museum, containing the early proceedings of that assembly which met in October, 1356, immediately after the battle of Poitiers, by no means leads to an unfavouralbe estimate of its intentions.* The tone of their representations to the Duke of Normandy (Charles V., not then called Dauphin) is full of loyal respect; their complaints of bad administration, though bold and pointed, not outrageous; their offers of subsidy liberal. The necessity of restoring the coin is strongly represented, as the

* Cotton MSS. Titus, t. xii. fol. 58—74. This manuscript is noticed, as an important document, in the preface to the third volume of Ordonnances, p. 48. by M. Sécousse, who had found it mentioned in the Bibliothèque Historique of Le Long. No. 11242. No French antiquary appears, at least before that time, to have seen it; but Boulainvilliers conjectured that it related to the assembly of States in February 1356, (1357) and M. Sécousse supposed it rather to be the original journal of the preceding meeting in October 1356, from which a copy, found among the manuscripts of Dupuy, and frequently referred to by Sécousse himself in his preface, had been taken. M. Sécousse was perfectly right in supposing the manuscript in question to relate to the proceedings of October, and not of February; but it is not an original instrument. It forms part of a small volume written on vellum and containing several other treatises. It seems, however, as far as I can judge, to be another copy of the account which Dupuy possessed, and which Sécousse so often quotes, under the name of Procès-verbal.

grand condition upon which they consented to tax the people, who had been long defrauded by the base money of Philip the Fair and his successors.*

Troubles at Paris. 1357

But whatever opportunity might now be afforded for establishing a just and free constitution in France was entirely lost. Charles, inexperienced and surrounded by evil counsellors, thought the States General inclined to encroach upon his rights, of which, in the best part of his life, he was always abundantly careful. He dismissed therefore the assembly, and had recourse to the easy but ruinous expedient of debasing the coin. This led to seditions at Paris, by which his authority and even his life were endangered. In February 1357, three months after the last meeting had been dissolved, he was obliged to convoke

* Et estoit et est l'entente de ceulx qui a la ditte convocation estoient que quelconque ottroy ou ayde qu'ils feissent, ils eussent bonne monnoye et estable selon l'advis des trois estats—et que les chartres et lettres faites pour les reformations du royaume par le roy Philippe le bel, et toutes celles qui furent faites par le roy notre seigneur qui est a prcsent fussent confirmées enterinées tenues et gardees de point en point; et toutes les aides quelconques qui faites soient fussent recues et distribuées par ceulx qui soient a ce commis par les trois estats, et autorisées par M. le Duc et sur certaines autres conditions et modifications justes et raissonnables et prouffitables et semble que ceste aide eust été moult grant et moult prouffitable, et trop plus que aides de fait de monnoye. Car elle se feroit de volonté du peuple et consentement commun selon Dieu et selon conscience: Et le prouffit que on prent et veult on prendre sur le fait de la monnoye duquel on veult faire le fait de la guerre, et ce soit a la destruction et a esté au temps passé du roy et du royaume et des subjets; Et si se destruit le billon tant par fontures et blanchis comme autrement, ne le fait ne peust durer longuement qu' il ne vienne à destruction si on continue longuement; Et si est tout certain que les gens d'armes ne vouldroient estre contens de leurs gaiges par foible monnoye, &c.

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the States again, and to enact an ordinance conformable to the petitions tendered by the former assembly.* This contained many excellent provisions, both for the redress of abuses, and the vigorous prosecution of the war against Edward; and it is difficult to conceive, that men who advised measures so conducive to the public weal could have been the blind instruments of the king of Navarre. But this, as I have already observed, is a problem in history that we cannot hope to resolve. It appears, however, that in a few weeks after the promulgation of this ordinance, the proceedings of the reformers fell into discredit, and their commission of thirty-six, to whom the collection of the new subsidy, the redress of grievances, and, in fact, the whole administration of government had been entrusted, became unpopular. The subsidy produced much less than they had led the people to expect; briefly, the usual consequence of democratical emotions in a monarchy took place. Disappointed by the failure of hopes unreasonably entertained, and improvidently encouraged, and disgusted by the excesses of the violent demagogues, the nation, especially its privileged classes, who seem to have concurred in the original proceedings of the States General, attached themselves to the party of Charles, and enabled him to quell opposition by force.† Mar-

* Ordonnances des Rois, t. iii. p. 121.

† Discordiâ motâ, illi tres status ab incepto proposito cessaverunt. Ex tunc enim regni negotia male ire, &c. Continuator Gul. de Nangis in Spicilegio, t. iii. p. 115.

cel, provost of the traders, a municipal magistrate of Paris, detected in the overt execution of a traitorous conspiracy with the king of Navarre, was put to death by a private hand. Whatever there had been of real patriotism in the States General, artfully confounded, according to the practice of courts, with these schemes of disaffected men, shared in the common obloquy; whatever substantial reforms had been projected, the government threw aside as seditious innovations. Charles, who had assumed the title of regent, found in the States General assembled at Paris in 1359, a very different disposition from that which their predecessors had displayed, and publicly restored all counsellors, whom in the former troubles he had been compelled to discard. Thus the monarchy resettled itself on its ancient basis; or, more properly, acquired additional stability.

Taxes imposed by John and Charles V.

Both John, after the peace of Bretigni, and Charles V. imposed taxes without consent of the States General.* The latter indeed hardly ever convoked that assembly. Upon his death the contention between the crown and representative body was renewed, and in the first meeting held after the accession of Charles VI. the government was compelled to revoke all taxes illegally imposed

Remedial ordinance of Charles VI. 1380

A very full account of these transactions is given by Sécousse, in his history of Charles the Bad, p. 107. and in his preface to the third volume of the Ordonnances des Rois. The reader must make allowance for the usual partialities of a French historian, where an opposition to the reigning prince is his subject. A contrary bias is manifested by Boulainvilliers and Mably, whom however it is well worth while to hear.

* Mably, l. v. c. 5. note 5.

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since the reign of Philip IV. This is the most remedial ordinance, perhaps, in the history of French legislation. We will, ordain, and grant, says the king, "that the aids, subsidies and impositions of whatever kind, and however imposed, that have had course in the realm since the reign of our predecessor Philip the Fair, shall be repealed and abolished; and we will and decree, that by the course which the said impositions have had, we or our successors shall not have acquired any right, nor shall any prejudice be wrought to our people, nor to their privileges and liberties, which shall be re-established in as full a manner as they enjoyed them in the reign of Philip the Fair, or at any time since; and we will and decree, that if any thing has been done contrary to them since that time to the present hour, neither we nor our successors shall take any advantage therefrom."* If circumstances had turned out favourably for the cause of liberty, this ordinance might have been the basis of a free constitution, in respect at least of immunity from arbitrary taxation. But the coercive measures of the court and tumultuous spirit of the Parisians produced an open quarrel, in which the popular party met with a decisive failure.

It seems indeed impossible, that a number of deputies elected merely for the purpose of granting money can possess that weight, or be invested in the eyes of their constituents with that awfulness

* Ordonnances des Rois, t. vi. p. 564. The ordinance is long, containing frequent repetitions, and a great redundance of words, intended to give more force, or at least solemnity.

of station, which is required to withstand the royal authority. The States General had no right of redressing abuses, except by petition; no share in the exercise of sovereignty, which is inseparable from the legislative power. Hence, even in their proper department of imposing taxes, they were supposed incapable of binding their constituents without their specific assent. Whether it were the timidity of the deputies, or false notions of freedom, which produced this doctrine, it was evidently repugnant to the stability and dignity of a representative assembly. Nor was it less ruinous in practice than mistaken in theory. For as the necessary subsidies, after being provisionally granted by the States, were often rejected by their electors, the king found a reasonable pretence for dispensing with the concurrence of his subjects, when he levied contributions upon them.

States General under Charles VII.

The States General were convoked but rarely under Charles VI. and VII. both of whom levied money without their concurrence. Yet there are remarkable testimonies under the latter of these princes, that the sanction of national representatives was still esteemed strictly requisite to any ordinance imposing a general tax, however the emergency of circumstances might excuse a more arbitrary procedure. Thus Charles VII. in 1436, declares that he has set up again the aids which had been previously abolished, *by the consent of the three estates.** And in the important edict esta-

* Ordonnances des Rois, t. xiii. p. 211.

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blishing the companies of ordonnance, which is recited to be done by the advice and counsel of the States General assembled at Orleans, the forty-first section appears to bear a necessary construction, that no tallage could lawfully be imposed without such consent.* It is maintained indeed by some writers, that the perpetual taille established about the same time was actually granted by these States of 1439, though it does not so appear upon the face of any ordinance.† And certainly this is consonant to the real and recognized constitution of that age.

Provincial states.

But the crafty advisers of courts in the fifteenth century, enlightened by experience of past dangers, were averse to encountering these great political masses, from which there were, even in peaceful times, some disquieting interferences, some testimonies of public spirit and recollections of liberty to apprehend. The kings of France indeed had a resource, which generally enabled them to avoid a convocation of the States General, without violating the national franchises. From provincial assemblies, composed of the three orders, they usually obtained more money than they could have extracted from the common representatives of the nation, and heard less of remonstrance and demand.‡ Languedoc in particular had her own assembly of states, and was rarely called upon to send deputies to the general body, or representatives of what was

* Ordonnances des Rois, p. 312. Boulainvilliers mentions other instances, where the States granted money during this reign. t. iii. p. 70.

† Bréquigny, préface au treizième tome des Ordonnances. Boulainvilliers, t. iii. p. 108.

‡ Villaret, t. xi. p. 270.

called the Languedoil. But Auvergne, Normandy, and other provinces belonging to the latter division, had frequent convocations of their respective estates, during the intervals of the States General; intervals, which by this means were protracted far beyond that duration to which the exigencies of the crown would otherwise have confined them.* This was one of the essential differences between the constitutions of France and England, and arose out of the original disease of the former monarchy, the distraction and want of unity, consequent upon the decline of Charlemagne's family, which separated the different provinces in respect of their interests and domestic government from each other.

But the formality of consent, whether by general or provincial states, now ceased to be reckoned indispensable. The lawyers had rarely seconded any efforts to restrain arbitrary power; in their hatred of feudal principles, especially those of territorial jurisdiction, every generous sentiment of freedom was proscribed; or if they admitted that absolute prerogative might require some checks, it was such only as themselves, not the national representatives, should impose. Charles VII. levied money by his own authority. Louis XI. carried this encroachment to the highest pitch of exaction. It was the boast of courtiers, that he first released the kings of France from dependence, (hors de page); or, in other words, that he effectually demolished those barriers, which, however

Taxes of Louis XI.

* Ordonnances des Rois, t. iii. préface.

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imperfect and ill-placed, had opposed some impediment to the establishment of despotism.*

The exactions of Louis, however, though borne with patience, did not pass for legal with those upon whom they pressed. Men still remembered their ancient privileges, which they might see with mortification well preserved in England. "There is no monarch or lord upon earth, (says Philip de Comines, himself bred in courts,) who can raise a farthing upon his subjects, beyond his own domains, without their free concession, except through tyranny and violence. It may be objected that in some cases there may not be time to assemble them, and that war will bear no delay; but I reply, (he proceeds,) that such haste ought not to be made, and there will be time enough; and I tell you that princes are more powerful, and more dreaded by their enemies, when they undertake any thing with the consent of their subjects."†

States General of Tours in 1484.

The States General met but twice during the reign of Louis XI. and on neither occasion for the purpose of granting money. But an assembly in

* The preface to the sixteenth volume of Ordonnances, before quoted, displays a lamentable picture of the internal situation of France in consequence of excessive taxation, and other abuses. These evils, in a less aggravated degree, continued ever since to retard the improvement, and diminish the intrinsic prosperity of a country so extraordinarily endowed with natural advantages. Philip de Comines was forcibly struck with the different situation of England and the Netherlands. And Sir John Fortescue has a remarkable passage on the poverty and servitude of the French commons, contrasted with English freemen. Difference of limited and absolute monarchy, p. 17.

† Mem. de Comines, l. iv. c. 19.

the first year of Charles VIII., the States of Tours in 1484, is too important to be overlooked, as it marks the last struggle of the French nation by its legal representatives for immunity from arbitrary taxation.

A warm contention arose for the regency upon the accession of Charles VIII., between his aunt Anne de Beaujeu, whom the late king had appointed by testament, and the princes of the blood, at the head of whom stood the duke of Orleans, afterwards Louis XII. The latter combined to demand a convocation of the States General, which accordingly took place. The king's minority and the factions at court seemed no unfavourable omens for liberty. But a scheme was artfully contrived, which had the most direct tendency to break the force of a popular assembly. The deputies were classed in six nations, who debated in separate chambers, and consulted each other only upon the result of their respective deliberations. It was easy for the court to foment the jealousies natural to such a partition. Two nations, the Norman and Burgundian, asserted that the right of providing for the regency devolved, in the king's minority, upon the States General, a claim of great boldness, and certainly not much founded upon precedents. In virtue of this, they proposed to form a council, not only of the princes, but of certain deputies to be elected by the six nations who composed the States. But the other four, those of Paris, Aquitaine, Languedoc, and Languedoil, (which last comprized the central pro-

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vinces,) rejected this plan, from which the two former ultimately desisted, and the choice of counsellors was left to the princes.

A firmer and more unanimous spirit was displayed upon the subject of public reformation. The tyranny of Louis XI. had been so unbounded, that all ranks agreed in calling for redress, and the new governors were desirous, at least by punishing his favourites, to shew their inclination towards a change of system. They were very far, however, from approving the propositions of the States General. These went to points which no court can bear to feel touched, though there is seldom any other mode of redressing public abuses; the profuse expense of the royal household, the number of pensions and improvident grants, the excessive establishment of troops. The States explicitly demanded that the taille and all other arbitrary imposts should be abolished; and that from thenceforward, "according to the natural liberty of France," no tax should be levied in the kingdom without the consent of the States. It was with great difficulty, and through the skilful management of the court, that they consented to the collection of the taxes payable in the time of Charles VII. with the addition of one fourth, as a gift to the king upon his accession. This subsidy they declare to be granted "by way of gift and concession, and not otherwise, and so as no one should from thenceforward call it a tax, but a gift and concession." And this was only to be in force for two years, after which they stipulated that

another meeting should be convoked. But it was little likely that the government would encounter such a risk; and the princes, whose factious views the States had by no means seconded, felt no temptation to urge again their convocation. No assembly in the annals of France seems, notwithstanding some party selfishness arising out of the division into nations, to have conducted itself with so much public spirit and moderation; nor had that country perhaps ever so fair a prospect of establishing a legitimate constitution.*

Successive changes in the judicial polity of France.

V. The right of jurisdiction has undergone changes in France and in the adjacent countries, still more remarkable than those of the legislative power; and passed through three very distinct stages, as the popular, aristocratic, or regal influence predominated in the political system. The Franks, Lombards and Saxons seem alike to have been jealous of judicial authority; and averse to surrendering what concerned every man's private right, out of the hands of his neighbours and his equals. Every ten families are supposed to have had a magistrate of their own election: the tythingman of England, the decanus of France and Lombardy.† Next in order was the Centenarius or Hundredary,

Original scheme of jurisdiction.

* I am altogether indebted to Garnier for the proceedings of the States of Tours. His account, Hist. de France, t. xviii. p. 154—348. is extremely copious, and derived from a manuscript journal. Comines alludes to them sometimes, but with little particularity.

† The Decanus is mentioned by a writer of the ninth age as the lowest species of judge, immediately under the Centenarius. The latter is compared to the Plebanus, or priest of a church, where baptism was performed, and the former to an inferior presbyter. Du Cange, v. Decanus; and Muratori, Antiq. Ital. Dissert. x.

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whose name expresses the extent of his jurisdiction, and who, like the Decanus, was chosen by those subject to it.* But the authority of these petty magistrates was gradually confined to the less important subjects of legal inquiry. No man, by a capitulary of Charlemagne, could be impleaded for his life, or liberty, or lands, or servants in the hundred court.† In such weighty matters, or by way of appeal from the lower jurisdictions, the count of the district was judge. He indeed was appointed by the sovereign; but his power was checked by assessors, called Scabini, who held their office by the election, or at least the concurrence, of the people.‡ These Scabini may be considered as a sort of jury, though bearing a closer analogy to the Judices Selecti, who sat with the Prætor in the tribunals of Rome. An ultimate appeal seems to have lain to the Count Palatine, an officer of the royal household; and sometimes causes were decided by the sovereign himself.§ Such was the

* It is evident from the Capitularies of Charlemagne, Baluze, t. i. p. 426 and 466. that the Centenarii were elected by the people; that is, I suppose, the free-holders.

† Ut nullus homo in placito centenarii neque ad mortem, neque ad libertatem suam amittendam, aut ad res reddendas vel mancipia judicetur. Sed ista aut in præsentiâ comitis vel missorum nostrorum judicentur. Capit. A.D. 812. Baluz. p. 497.

‡ Baluzii Capitularia, p. 466. Muratori, Dissert. 10. Du Cange, v. Scabini. These Scabini may be traced by the light of charters down to the eleventh century. Recueil des Historiens, t. vi. preface, p. 186. There is, in particular, a decisive proof of their existence in 918, in a record which I have already had occasion to quote. Vaissette, Hist. de Languedoc, t. ii. Appendix, p. 56. Du Cange, Baluze, and other antiquaries, have confounded the Scabini with the Rachimburgii, of whom we read in the oldest laws. But M. Guizot has proved the latter were land-holders, acting in the county courts as judges under the presidency of the count, but wholly independent of him. The Scabini in Charlemagne's age superseded them. Essai sur l'Histoire de France, p. 259—272.

§ Du Cange, Dissertation 14.

original model of judicature; but as complaints of injustice and neglect were frequently made against the counts, Charlemagne, desirous on every account to controul them, appointed special judges, called Missi Regii, who held assizes from place to place, inquired into abuses and mal-administration of justice, enforced its execution, and expelled inferior judges from their offices for miconduct.*

Territorial jurisdiction.

This judicial system was gradually superseded by one founded upon totally opposite principles, those of feudal privilege. It is difficult to ascertain the progress of territorial jurisdiction. In many early charters of the French kings, beginning with one of Dagobert I. in 630, we find inserted in their grants of land an immunity from the entrance of the ordinary judges, either to hear causes, or to exact certain dues accruing to the king and to themselves. These charters indeed relate to church lands, which, as it seems implied by a law of Charlemagne, universally possessed an exemption from ordinary jurisdiction. A prece-

sur Joinville; and Glossary, v. Comites Palatini; Mém. de l'Acad. des Inscript. t. xxx. p. 590. Louis the Debonair gave one day in every week to hearing causes; but his subjects were required not to have recourse to him, unless where the Missi or the counts had not done justice. Baluze, t. i. p. 668. Charles the Bald expressly reserves an appeal to himself from the inferior tribunals. Capit. 869. t. ii. p. 215. In his reign, there was at least a claim to sovereignty preserved.

* For the jurisdiction of the Missi Regii, besides the Capitularies themselves, see Muratori's eighth Dissertation. They went their circuits four times a year. Capitul. A. D. 812. A. D. 823. A vestige of this institution long continued in the province of Auvergne, under the name of Grands Jours d'Auvergne; which Louis XI. revived in 1479. Garnier, Hist. de France, t. xviii. p. 458.

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dent, however, in Marculfus leads us to infer a similar immunity to have been usually in gifts to private persons.* These rights of justice in the beneficiary tenants of the crown are attested in several passages of the capitularies. And a charter of Louis I. to a private individual contains a full and exclusive concession of jurisdiction over all persons resident within the territory, though subject to the appellant controul of the royal tribunals.† It is obvious, indeed, that an exemption from the regular judicial authorities implied or naturally led to a right of administering justice in their place. But this could at first hardly extend beyond the tributaries or villeins who cultivated their master's soil, or, at most, to free persons without property, resident in the territory. To determine their quarrels, or chastise their offences, was no very illustrious privilege. An alodial freeholder could own no jurisdiction but that of the king. It was the general prevalence of sub-infeudation, which gave importance to the territorial jurisdictions of the nobility. For now the military tenants, instead of repairing to the county-court, sought justice in that of their immediate lord; or

* Marculfi Formulæ, l. i. c. 17.

† Et nullus comes, nec vicarius, nec juniores eorum, nec ullus judex publicus illorum homines, qui super illorum aprisione habitant, aut in illorum proprio, distringere nec judicare præsumant; sed Johannes et filii sui, et posteritas illorum, illi eos judicent et distringant. Et quicquid per legem judicaverint, stabilis permaneat. Et si extra legem fecerint, per legem emendent. Baluzii Capitularia, t. ii. p. 1405.

This appellant controul was preserved by the capitulary of Charles the Bald, quoted already, over the territorial, as well as royal tribunals. Si aliquis episcopus, vel comes ac vassus noster suo homini contra rectum et justitiam fecerit, et si inde ad nos reclamaverit, sciat quia, sicut ratio et lex est, hoc emendare faciemus.

rather the count himself, become the suzerain instead of the governor of his district, altered the form of his tribunal upon the feudal model.* A system of procedure so congenial to the spirit of the age spread universally over France and Germany. The tribunals of the king were forgotten like his laws; the one retaining as little authority to correct, as the other to regulate, the decisions of a territorial judge. The rules of evidence were superseded by that monstrous birth of ferocity and superstition, the judicial combat, and the maxims of law reduced to a few capricious customs, which varied in almost every barony.

Its divisions.

These rights of administering justice were possessed by the owners of fiefs in very different degrees; and, in France, were divided into the high, the middle, and the low jurisdiction.† The first species alone (la haute justice) conveyed the power of life and death; it was inherent in the baron and the châtelain, and sometimes enjoyed by the simple vavassor. The lower jurisdictions were not competent to judge in capital cases, and consequently forced to send such criminals to the court of the superior. But in some places, a thief taken in the fact might be punished with death by

* We may perhaps infer, from a capitulary of Charlemagne in 809, that the feudal tenants were already employed as assessors in the administration of justice, concurrently with the Scabini mentioned above. Ut nullus ad placitum venire cogatur, nisi qui causam habet ad quærendum, exceptis scabinis et vassallis comitum. Baluz. Capitularia, t. i. p. 465.

† Velly, t. vi. p. 131. Denisart, Houard, and other law-books.

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a lord who had only the low jurisdiction. In England, this privilege was known by the uncouth terms of Infangthef and Outfangthef. The high jurisdiction, however, was not very common in this country, except in the chartered towns.*

Its administration.

Several customs rendered these rights of jurisdiction far less instrumental to tyranny than we might infer from their extent. While the counts were yet officers of the crown, they frequently appointed a deputy, or viscount, to administer justice. Ecclesiastical lords, who were prohibited by the canons from inflicting capital punishment, and supposed to be unacquainted with the law followed in civil courts, or unable to enforce it, had an officer by name of advocate, or vidame, whose tenure was often feudal and hereditary. The viguiers (vicarii), bailiffs, provosts, and seneschals of lay lords were similar ministers, though not in general of so permanent a right in their offices, or of such eminent station as the advocates of monasteries. It seems to have been an established maxim, at least in later times, that

* A strangely cruel privilege was possessed in Aragon by the lords who had not the higher jurisdiction, and consequently could not publicly execute a criminal; that of starving him to death in prison. This was established by law in 1247. Si vassallus domini non habentis merum nec mixtum imperium, in loco occiderit vassallum, dominus loci potest eum occidere fame, frigore et siti. Et quilibet dominus loci habet hanc jurisdictionem necandi fame, frigore et siti in suo loco, licet nullam aliam jurisdictionem criminalem habeat. Du Cange, voc. Fame necare.

It is remarkable, that the Neapolitan barons had no criminal jurisdiction, at least of the higher kind, till the reign of Alfonso, in 1443, who sold this destructive privilege, at a time when it was almost abolished in other kingdoms. Giannone, l. xxii. c. 5. and l. xxvi. c. 6.

the lord could not sit personally in judgement, but must entrust that function to his bailiff and vassals.* According to the feudal rules, the lord's vassals or peers of his court were to assist at all its proceedings. "There are some places, says Beaumanoir, where the plaintiff decides in judgement, and others, where the vassals of the lord decide. But even where the bailiff is the judge, he ought to advise with the most prudent, and determine by their advice; since thus he shall be most secure if an appeal is made from his judgement."† And indeed the presence of these assessors was so essential to all territorial jurisdiction, that no lord, to whatever rights of justice his fief might entitle him, was qualified to exercise them, unless he had at least two vassals to sit as peers in his court.‡

Trial by combat.

These courts of a feudal barony or manor required neither the knowledge of positive law, nor the dictates of natural sagacity. In all doubtful cases, and especially where a crime not capable of notorious proof was charged, the combat was awarded; and God, as they deemed, was

* Boutillier, in his Somme Rurale, written near the end of the fourteenth century, asserts this positively. Il convient quilz facent jugier par aultre que par eulx, cest a savoir par leurs hommes feudaulx a leur semonce et *conjuré* [?] ou de leur bailiff ou lieutenant, et ont ressort a leur souverain. fol. 3.

† Coûtumes de Beauvoisis, p. 11.

‡ It was lawful, in such case, to borrow the vassals of the superior lord. Thaumassière sur Beaumanoir, p. 375. See Du Cange, v. Pares; an excellent article, and Placitum.

In England, a manor is extinguished, at least as to jurisdiction, when there are not two freeholders subject to escheat left as suitors to the court-baron. Their tenancy must therefore have been created before the statute of Quia emptores, 18 Edw. I. (1290) since which no new estate in fee simple can be held of the lord, nor, consequently, be liable to escheat to him.

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the judge.* The nobleman fought on horseback, with all his arms of attack and defence; the plebeian on foot, with his club and target. The same were the weapons of the champions, to whom women and ecclesiastics were permitted to entrust their rights.† If the combat was intended to ascertain a civil right, the vanquished party of course forfeited his claim, and paid a fine. If he fought by proxy, the champion was liable to have his hand struck off; a regulation necessary perhaps to obviate the corruption of these hired defenders. In criminal cases, the appellant suffered, in the event of defeat, the same punishment which the law awarded to the offence of which he accused his adversary.‡ Even where the cause was more peaceably tried, and brought to a regular adjudication by the court, an appeal for

* Trial by combat does not seem to have established itself completely in France, till ordeals went into disuse, which Charlemagne rather encouraged, and which, in his age, the clergy for the most part approved. The former species of decision may however be met with under the first Merovingian kings, (Greg. Turon. l. vii. c. 19. l. x. c. 10.) and seems to have prevailed in Burgundy. It is established by the laws of the Alemanni or Swabians. Baluz. t. i. p. 80. It was always popular in Lombardy. Luitprand, King of the Lombards, says in one of his laws: Incerti sumus de judicio Dei, et quosdam audivimus per pugnam sine justâ causâ suam causam perdere. Sed propter consuetudinem gentis nostræ Langobardorum legem impiam vetare non possumus. Muratori, Script. Rerum Italicarum, t. ii. p. 65. Otho II. established it in all disputes concerning real property; and there is a famous case, where the right of representation, or preference of the son of a deceased elder child to his uncle in succession to his grandfather's estate, was settled by this test.

† For the ceremonies of trial by combat, see Houard, Anciennes Loix Françoises, t. i. p. 264. Velly, t. vi. p. 106. Recueil des Historiens, t. xi. préface, p. 189. Du Cange, v. Duellum. The great original authorities are the Assises de Jérusalem, c. 104. and Beaumanoir, c. 31.

‡ Beaumanoir, p. 315.

false judgement might indeed be made to the suzerain, but it could only be tried by battle.* And in this, the appellant, if he would impeach the concurrent judgement of the court below, was compelled to meet successively in combat every one of its members; unless he should vanquish them all within the day, his life, if he escaped from so many hazards, was forfeited to the law. If fortune or miracle should make him conqueror in every contest, the judges were equally subject to death, and their court forfeited their jurisdiction for ever. A less perilous mode of appeal was to call the first judge who pronounced a hostile sentence into the field. If the appellant came off victorious in this challenge, the decision was reversed, but the court was not impeached.† But for denial of justice, that is, for a refusal to try his suit, the plaintiff repaired to the court of the next superior lord, and supported his appeal by testimony.‡ Yet, even here, the witnesses might be defied, and the pure stream of justice turned at once into the torrent of barbarous contest.§

* Beaumanoir, c. 61. In England the appeal for false judgement to the king's court was not tried by battle. Glanvil, l. xii. c. 7.

† Idem, c. 61.

‡ Id. p. 315. The practice was to challenge the *second* witness, since the testimony of one was insufficient. But this must be done before he completes his oath, says Beaumanoir, for after he has been sworn, he must be heard and believed, p. 316. No one was bound, as we may well believe, to be a witness for another, in cases where such an appeal might be made from his testimony.

§ Mably is certainly mistaken in his opinion, that appeals for denial of justice were not older than the reign of Philip Augustus. (Observations sur l'Hist. de F. l. iii. c. 3.) Before this time, the vassal's remedy, he thinks, was to make war upon his lord. And this may probably have been frequently practised. Indeed it is permitted, as we have seen, by the code of St.

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Establishments of St. Louis.

Such was the judicial system of France, when St. Louis enacted that great code, which bears the name of his Establishments. The rules of civil and criminal procedure, as well as the principles of legal decisions, are there laid down with much detail. But that incomparable prince, unable to overthrow the judicial combat, confined himself to discouraging it by the example of a wiser jurisprudence. It was abolished throughout the royal domains. The bailiffs and seneschals who rendered justice to the king's immediate subjects were bound to follow his own laws. He not only received appeals from their sentences in his own court of peers, but listened to all complaints with a kind of patriarchal simplicity. "Many times, says Joinville, I have seen the good Saint, after

Louis. But those who were not strong enough to adopt this dangerous means of redress, would surely avail themselves of the assistance of the suzerain, which in general would be readily afforded. We find several instances of the king's interference for the redress of injuries in Suger's Life of Louis VI. That active and spirited prince, with the assistance of his illustrious biographer, recovered a great part of the royal authority, which had been reduced to the lowest ebb in the long and slothful reign of his father, Philip I. One passage, especially, contains a clear evidence of the appeal for denial of justice, and consequently refutes Mably's opinion. In 1105, the inhabitants of St. Sévère, in Berri, complain of their lord Humbald, and request the king aut ad exequendam justitiam cogere, aut jure pro injuriâ castrum lege Salicâ amittere. I quote from the preface to the fourteenth volume of the Recueil des Historiens, p. 44. It may be noticed by the way, that lex Salica is here used for the feudal customs; in which sense I believe it not unfrequently occurs. Many proofs might be brought of the interposition of both Louis VI. and VII. in the disputes between their barons and arrière vassals. Thus the war between the latter and Henry II. of England, in 1166, was occasioned by his entertaining a complaint from the count of Auvergne, without waiting for the decision of Henry, as duke of Guienne. Velly, t. iii. p. 190. Lyttleton's Henry II. vol. ii. p. 448. Recueil des Historiens, ubi supra, p. 49.

hearing mass in the summer season, lay himself at the foot of an oak in the wood of Vincennes, and make us all sit round him; when those who would came and spake to him, without let of any officer, and he would ask aloud if there were any present who had suits, and when they appeared, would bid two of his bailiffs determine their cause upon the spot."*

The influence of this new jurisprudence established by St. Louis, combined with the great enhancement of the royal prerogatives in every other respect, produced a rapid change in the legal administration of France. Though trial by combat occupies a considerable space in the work of Beaumanoir, written under Philip the Bold, it was already much limited. Appeals for false judgement might sometimes be tried, as he expresses it, par erremens de plait, that is, I presume, where the alleged error of the court below was in matter of law. For wager of battle was chiefly intended to ascertain controverted facts.† So where the suzerain saw clearly that the judgement of the inferior court was right, he ought not to permit the combat. Or if the plaintiff, even in the first instance, could produce a record or a written obligation; or if the fact before the court was notorious, there was no room for battle.‡ It would be a hard thing, says Beaumanoir, that if one had killed my near relation in open day be-

* Collection des Mémoires, t. i. p. 25.

† Beaumanoir, p. 22.

‡ Id. p. 314.

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fore many credible persons, I should be compelled to fight in order to prove his death. This reflection is the dictate of common sense, and shews that the prejudice in favour of judicial combat was dying away. In the Assises de Jérusalem, a monument of customs two hundred years earlier than the age of Beaumanoir, we find little mention of any other mode of decision. The compiler of that book thinks it would be very injurious, if no wager of battle were to be allowed against witnesses in causes affecting succession; since otherwise every right heir might be disinherited, as it would be easy to find two persons who would perjure themselves for money, if they had no fear of being challenged for their testimony.* This passage indicates the real cause of preserving the judicial combat; systematic perjury in witnesses, and want of legal discrimination in judges.

It was, in all civil suits, at the discretion of the litigant parties, to adopt the law of the Establishments, instead of resorting to combat.† As gentler manners prevailed, especially among those who did not make arms their profession, the wisdom and equity of the new code was naturally preferred. The superstition which had originally led to the latter lost its weight through experience and the uniform opposition of the clergy. The same superiority of just and settled rules over fortune and violence, which had forwarded the encroachments of the ecclesiastical courts, was now manifested in

* c. 167.

† Beaumanoir, p. 309.

those of the king. Philip Augustus, by a famous ordinance in 1190, first established royal courts of justice, held by the officers called bailiffs or seneschals, who acted as the king's lieutenants in his domains.* Every barony, as it became reunited to the crown, was subjected to the jurisdiction of one of these officers, and took the name of a bailliage or a seneschaussée; the former name prevailing most in the northern, the latter in the southern provinces. The vassals whose lands depended upon, or, in feudal language, moved from the superiority of this fief, were obliged to submit to the ressort or supreme appellant jurisdiction of the royal court established in it.† This began rapidly to encroach upon the feudal rights of justice. In a variety of cases, termed royal, the territorial court was pronounced incompetent; they were reserved for the judges of the crown; and, in every case, unless the defendant excepted to the jurisdiction, the royal court might take cognizance of a suit, and decide it in exclusion of the feudal judicature.‡ The nature of cases reserved under the name of royal was kept in studied ambiguity, under cover of which the judges of the crown perpetually strove to multiply them. Louis X., when requested by the barons of Champagne to explain what was meant by royal causes, gave this mysterious definition: Every thing which by right or

Royal tribunals and progress of their jurisdiction.

* Ordonnances des Rois, t. i. p. 18.

† Du Cange, v. Ballivi. Mém. de l'Acad. des Inscriptions, t. xxx. p. 603. Mably, l. iv. c. 4. Boulainvilliers, t. ii. p. 22.

‡ Mably. Boulainvilliers. Montlosier, t. i. p. 104.

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custom ought exclusively to come under the cognizance of a sovereign prince.* Vassals were permitted to complain in the first instance to the king's court, of injuries committed by their lords. These rapid and violent encroachments left the nobility no alternative but armed combinations to support their remonstrances. Philip the Fair bequeathed to his successor the task of appeasing a storm, which his own administration had excited. Leagues were formed in most of the northern provinces for the redress of grievances, in which the third estate, oppressed by taxation, united with the vassals, whose feudal privileges had been infringed. Separate charters were granted to each of these confederacies by Louis Hutin, which contain many remedial provisions against the grosser violations of ancient rights, though the crown persisted in restraining territorial jurisdictions.† Appeals became more common for false judgement, as well as denial of right; and in neither was the combat permitted. It was still, however, preserved in accusations of heinous crimes, unsupported by any testimony but that of the prosecutor, and was never abolished by any positive law, either in France or England. But instances of its occurrence are not

* Ordonnances des Rois, p. 606.

† Hoc perpetuo prohibemus edicto, ne subditi, seu justiciabiles prælatorum aut baronum nostrorum aut aliorum subjectorum nostrorum, trahantur in causam coram nostris officialibus, nec eorum causæ, nisi in casu ressorti, in nostris curiis audiantur, vel in alio casu ad nos pertinenti. Ordonnances des Rois, t. i. p. 362. This ordinance is of Philip the Fair, in 1302; but those passed under Louis Hutin are to the same effect. They may be read at length in the Ordonnances des Rois; or abridged by Boulainvilliers, t. ii. p. 94.

frequent even in the fourteenth century; and one of these, rather remarkable in its circumstances, must have had a tendency to explode the remaining superstition which had preserved this mode of decision.*

Royal council or court of peers.

The supreme council, or court of peers, to whose deliberative functions I have already adverted, was also the great judicial tribunal of the French crown from the accession of Hugh Capet. By this alone the barons of France, or tenants in chief of the king, could be judged. To this court appeals for denials of justice were referred. It was originally composed, as has been observed, of the feudal vassals, co-equals of those who were to be tried by it; and also of the household officers, whose right of concurrence, however anomalous, was extremely ancient.† But after the business of the court came to increase through the multiplicity of appeals, especially from the bailiffs established by Philip Augustus in the royal domains, the barons found neither leisure nor capacity for the ordinary ad-

* Philip IV. restricted trial by combat to cases where four conditions were united. The crime must be capital: Its commission certain: The accused greatly suspected: And no proof to be obtained by witnesses. Under these limitations, or at least some of them, for it appears that they were not all regarded, instances occur for some centuries.

See the singular story of Carouges and Le Gris, to which I allude in the text. Villaret, t. xi. p. 412. Trial by combat was allowed in Scotland exactly under the same conditions as in France. Pinkerton's Hist. of Scotl. vol. i. p. 66.

† This court had always, it must be owned, a pretty considerable authority over some of the royal vassals. Even in Robert's reign, the count of Anjou and another nobleman of less importance were summoned before it. Recueil des Historiens, t. x. p. 473. 476.

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ministration of justice, and reserved their attendance for occasions where some of their own order were implicated in a criminal process. St. Louis, anxious for regularity and enlightened decisions, made a considerable alteration by introducing some counsellors of inferior rank, chiefly ecclesiastics, as advisers of the court, though, as is supposed, without any decisive suffrage. The court now became known by the name of parliament. Registers of its proceedings were kept, of which the earliest extant are of the year 1254. It was still perhaps in some degree ambulatory; but by far the greater part of its sessions in the thirteenth century were at Paris. The counsellors nominated by the king, some of them clerks, others of noble rank, but not peers of the ancient baronage, acquired insensibly a right of suffrage.*

Cours Plénières.

Parliament of Paris.

An ordinance of Philip the Fair in 1302 is generally supposed to have fixed the seat of the parliament at Paris, as well as altered its constituent parts.† Perhaps a series of progressive changes has been referred to a single epoch. But whether by virtue of this ordinance, or of more gradual events, the character of the whole feudal court was nearly obliterated in that of the parliament of Paris. A systematic tribunal took the place of a

* Boulainvilliers, t. ii. p. 29. 44. Mably, l. iv. c. 2. Encyclopédie, Art. Parlement. Mém. de l'Acad. des Inscript. t. xxx. p. 603. The great difficulty I have found in this investigation will plead my excuse, if errors are detected.

† Pasquier (Recherches de la France, l. ii. c. 3.) published this ordinance, which indeed, as the editor of Ordonnances des Rois, t. i. p. 547. observes, is no ordinance, but a regulation for the execution of one previously made; nor does it establish the residence of the parliament of Paris.

loose aristocratic assembly. It was to hold two sittings in the year, each of two months duration; it was composed of two prelates, two counts, thirteen clerks, and as many laymen. Great changes were made afterwards in this constitution. The nobility, who originally sat there, grew weary of an attendance, which detained them from war, and from their favourite pursuits at home. The bishops were dismissed to their necessary residence upon their sees.* As they withdrew, that class of regular lawyers, originally employed, as it appears, in the preparatory business without any decisive voice, came forward to the higher places, and established a complicated and tedious system of procedure, which was always characteristic of French jurisprudence. They introduced at the same time a new theory of absolute power, and unlimited obedience. All feudal privileges were treated as encroachments on the imprescriptible rights of monarchy. With the natural bias of lawyers in favour of prerogative conspired that of the clergy, who fled to the king for refuge against the tyranny of the barons. In the civil and canon laws a system of political maxims was found, very uncongenial to the feudal customs. The French lawyers of the fourteenth and fifteenth centuries frequently give their king the title of Emperor, and treat disobedience to him as sacrilege.†

Decline of the feudal system.

* Velly, Hist. de France, t. vii. p. 303. and Encyclopédie, Art. Parlement, are the best authorities I have found. There may very possibly be superior works on this branch of the French constitution, which have not fallen into my hands.

† Mably, l. iv. c. 2. note 10.

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Peers of France.

But among these lawyers, although the general tenants of the crown by barony ceased to appear, there still continued to sit a more eminent body, the lay and spiritual peers of France, representatives, as it were, of that ancient baronial aristocracy. It is a very controverted question, at what time this exclusive dignity of peerage, a word obviously applicable by the feudal law to all persons co-equal in degree of tenure, was reserved to twelve vassals. At the coronation of Philip Augustus, in 1179, we first perceive the six great feudataries, dukes of Burgundy, Normandy, Guienne, counts of Toulouse, Flanders, Champagne, distinguished by the offices they performed in that ceremony. It was natural indeed that by their princely splendour and importance, they should eclipse such petty lords as Bourbon and Coucy, however equal in quality of tenure. During the reign of Philip Augustus, six ecclesiastical peers, the duke-bishops of Rheims, Laon, and Langres, the count-bishops of Beauvais, Chalons, and Noyon, were added, as a sort of parallel or counterpoise.* Their precedence does not, however, appear to have carried with it any other privilege, at least in judicature, than other barons enjoyed. But their pre-eminence being fully confirmed, Philip the Fair set the precedent of augmenting their original number, by conferring the dignity of peerage on the duke of Britany and the count of Artois.† Other creations took place sub-

* Velly, t. ii. p. 287. t. iii. p. 221. † Velly, t. vii. p. 97. t. iv. p. 41.

sequently; but they were confined, during the period comprised in this work, to princes of the royal blood. The peers were constant members of the parliament, from which other vassals holding in chief were never perhaps excluded by law, but their attendance was rare in the fourteenth century, and soon afterwards ceased altogether.*

Progress of the jurisdiction of the parliament.

A judicial body composed of the greatest nobles in France, as well as of learned and eminent lawyers, must naturally have soon become politically important. Notwithstanding their disposition to enhance every royal prerogative, as opposed to feudal privileges, the parliament was not disinclined to see its own protection invoked by the subject. It appears by an ordinance of Charles V. in 1371, that the nobility of Languedoc had appealed to the parliament of Paris against a tax imposed by the king's authority; and this, at a time when the French constitution did not recognize the levying of money without consent of the States General, must have been a just ground of appeal, though the present ordinance annuls and overturns it.† During the tempests of Charles VI.'s unhappy reign, the parliament acquired a more decided authority, and held, in some degree, the balance between the contending factions of Orleans and Burgundy. This influence was partly owing to one remarkable function attributed to the parliament, which raised it much above the

* Encyclopédie, Art. Parlement, p. 6.

† Mably, l. v. c. 5. note 5.

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level of a merely political tribunal, and has at various times wrought striking effects in the French monarchy.

Royal edicts enregistered in parliament.

The few ordinances enacted by kings of France in the twelfth and thirteenth centuries were generally by the advice of their royal council, in which probably they were solemnly declared as well as agreed upon. But after the gradual revolution of government, which took away from the feudal aristocracy all controul over the king's edicts, and substituted a new magistracy for the ancient baronial court, these legislative ordinances were commonly drawn up by the interior council, or what we may call the ministry. They were in some instances promulgated by the king in parliament. Others were sent thither for registration, or entry upon their records. This formality was by degrees, if not from the beginning, deemed essential to render them authentic and notorious, and therefore indirectly gave them the sanction and validity of a law.* Such at least appears to have been the received doctrine before the end of the fourteenth century. It has been contended by Mably among other writers, that at so early an epoch, the parliament of Paris did not enjoy, nor even claim to itself that anomalous right of judging the expediency of edicts proceeding from the king, which afterwards so remarkably modified the absoluteness of his power. In the fifteenth century, however, it certainly manifested pretensions of this nature; first by registering ordinances in

* Encyclopédie, Art. Parlement.

such a manner as to testify its own unwillingness and disapprobation, of which one instance occurs as early as 1418, and another in 1443; and, afterwards, by remonstrating against, and delaying the registration of laws, which it deemed inimical to the public interest. A conspicuous proof of this spirit was given in their opposition to Louis XI. when repealing the Pragmatic Sanction of his father; an ordinance essential, in their opinion, to the liberties of the Gallican church. In this instance they ultimately yielded; but at another time they persisted in a refusal to enregister letters containing an alienation of the royal domain.*

Counsellors of parliament appointed for life and by election.

The counsellors of parliament were originally appointed by the king; and they were even changed according to circumstances. Charles V. made the first alteration by permitting them to fill up vacancies by election, which usage continued during the next reign. Charles VII. resumed the nomination of fresh members upon vacancies. Louis XI. even displaced actual counsellors. But in 1468, from whatever motive, he published a most important ordinance, declaring the presidents and counsellors of parliament immoveable, except in case of legal forfeiture.† This extraordinary measure of conferring independence on a body, which had already displayed a consciousness of its eminent privilege by opposing the registration of his edicts, is perhaps to be deemed

* Mably, l. vi. c. 5. note 19 and 21. Garnier, Hist. de France, t. xvii. p. 219. 380.

† Villaret, t. xiv. p. 231. Encyclopédie, Art. Parlement.

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a proof of that short-sightedness as to points of substantial interest, so usually found in crafty men. But, be this as it may, there was formed in the parliament of Paris an independent power not emanating from the royal will, nor liable, except through force, to be destroyed by it; which, in later times, became almost the sole depositary, if not of what we should call the love of freedom, yet of public spirit and attachment to justice. France, so fertile of great men in the sixteenth and seventeenth centuries, might better spare, perhaps, from her annals any class and description of them, than her lawyers. Doubtless the parliament of Paris, with its prejudices and narrow views, its high notions of loyal obedience, so strangely mixed up with remonstrances and resistance, its anomalous privilege of objecting to edicts, hardly approved by the nation who did not participate in it, and overturned with facility by the king, whenever he thought fit to exert the sinews of his prerogative, was but an inadequate substitute for that co-ordinate sovereignty, that equal concurrence of national representatives in legislation, which has long been the exclusive pride of our government, and to which the States General of France, in their best days, had never aspired. No man of sane understanding would desire to revive institutions, both uncongenial to modern opinions, and to the natural order of society. Yet the name of the parliament of Paris must ever be respectable. It exhibited, upon various occasions, virtues from which human esteem is as inseparable, as the shadow from the substance; a severe adhe-

rence to principles, an unaccommodating sincerity, individual disinterestedness and consistency. Whether indeed these qualities have been so generally characteristic of the French people, as to afford no peculiar commendation to the parliament of Paris, it is rather for the observer of the present day, than the historian of past times to decide.*

Causes of the decline of the feudal system.

The principal causes that operated in subverting the feudal system may be comprehended under three distinct heads; the increasing power of the crown, the elevation of the lower ranks, and the decay of the feudal principle.

* The province of Languedoc, with its dependencies of Quercy and Rouergue, having belonged almost in full sovereignty to the counts of Toulouse, was not perhaps subject to the feudal resort, or appellant jurisdiction of any tribunal at Paris. Philip the Bold, after its re-union to the crown, established the parliament of Toulouse, a tribunal without appeal, in 1280. This was however suspended from 1291 to 1443, during which interval the parliament of Paris exercised an appellant jurisdiction over Languedoc. Vaissette, Hist. de Lang. t. iv. p. 60. 71. 524. Sovereign courts or parliaments were established by Charles VII. at Grenoble for Dauphiné and by Louis XI. at Bordeaux and Dijon for Guienne and Burgundy. The parliament of Rouen is not so ancient. These institutions rather diminished the resort of the parliament of Paris, which had extended over Burgundy, and, in time of peace, over Guienne.

A work has appeared within a very few years, which throws an abundant light on the judicial system, and indeed on the whole civil polity of France, as well as other countries, during the middle ages. I allude to L'Esprit, Origine et Progrès des Institutions judiciaires des principaux pays de l'Europe, by M. Meyer, of Amsterdam; especially the first and third volumes. It would have been fortunate had its publication preceded that of the first edition of the present work; as I might have rendered this chapter on the feudal system in many respects more perspicuous and correct. As it is, without availing myself of M. Meyer's learning and acuteness to illustrate the obscurity of these researches, or discussing the few questions upon which I might venture, with deference, to adhere to another opinion, neither of which could conveniently be done on the present occasion, I shall content myself with this general reference to a performance of singular diligence and ability, which no student of these antiquities should neglect. In all essential points I am happy not to perceive that M. Meyer's views of the middle ages are far different from my own.—*Note to the fourth edit.*

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Acquisitions of power by the crown.

Augmentation of the domain.

It has been my object in the last pages to point out the acquisitions of power by the crown of France in respect of legislative and judicial authority. The principal augmentations of its domain have been historically mentioned in the last chapter; but the subject may here require further notice. The French kings naturally acted upon a system, in order to recover those possessions, which the improvidence or necessities of the Carlovingian race had suffered almost to fall away from the monarchy. This course, pursued with tolerable steadiness for two or three centuries, restored their effective power. By escheat or forfeiture, by bequest or purchase, by marriage or succession, a number of fiefs were merged in their increasing domain.* It was part of their policy

* The word domain is calculated, by a seeming ambiguity, to perplex the reader of French history. In its primary sense, the domain or demesne (dominicum) of any proprietor was confined to the lands in his immediate occupation; excluding those of which his tenants, whether in fief or villenage, whether for a certain estate or at will, had an actual possession, or, in our law-language, pernancy of the profits. Thus the compilers of Domesday-Book distinguish, in every manor, the lands held by the lord in demesne from those occupied by his villeins or other tenants. And, in England, the word, if not technically, yet in use is still confined to this sense. But in a secondary acceptation, more usual in France, the domain comprehended all lands for which rent was paid (censives) and which contributed to the regular annual revenue of the proprietor. The great distinction was between lands in demesne, and those in fief. A grant of territory, whether by the king or another lord, comprizing as well domanial estates and tributary towns, as feudal superiorities, was expressed to convey 'in dominico quod est in dominico, et in feodo quod est in feodo.' Since, therefore, fiefs, even those of the vavassors or inferior tenantry, were not part of the lord's domain, there is, as I said, an apparent ambiguity in the language of historians, who speak of the reunion of provinces to the royal domain. This ambiguity however is rather apparent than real. When the duchy of Normandy, for example, is said to have been united by Philip Augustus to his domain, we are not, of course, to suppose that the soil of that province became the private estate of the crown. It continued,

to obtain possession of arriere-fiefs, and thus to become tenants of their own barons. In such cases, the king was obliged, by the feudal duties, to perform homage, by proxy, to his subjects, and engage himself to the service of his fief. But, for every political purpose, it is evident that the lord could have no command over so formidable a vassal.*

The re-union of so many fiefs was attempted to be secured by a legal principle, that the domain was inalienable and imprescriptible. This became at length a fundamental maxim in the law of France. But it does not seem to be much older than the reign of Philip V. who, in 1318, revoked the alienations of his predecessors, nor was it thoroughly established, even in theory, till the fifteenth century.† Alienations, however, were certainly very repugnant to the policy of Philip Augustus and St. Louis. But there was one species of infeudation, so consonant to ancient usage and prejudice, that it could not be avoided upon any suggestions of policy; this was the investiture of younger princes of the blood with considerable territorial apanages. It is remarkable that the epoch of

as before, in the possession of the Norman barons and their sub-vassals, who had held their estates of the dukes. But it is meant only, that the king of France stood exactly in the place of the duke of Normandy, with the same rights of possession over lands absolutely in demesne, of rents and customary payments from the burgesses of towns and tenants in roture or villenage, and of feudal services from the military vassals. The immediate superiority, and the immediate ressort, or jurisdiction, over these devolved to the crown; and thus the duchy of Normandy, considered as a fief, was re-united, or more properly, merged in the royal domain, though a very small part of the territory might become truly domanial.

* See a memoir on the acquisition of arriere-fiefs by the kings of France, in Mém. de l'Acad. des Inscript. t. I. by M. Dacier.

† Préface au 15me tome des Ordonnances, par M. de Pastoret.

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apanages on so great a scale was the reign of St. Louis, whose efforts were constantly directed against feudal independence. Yet he invested his brothers with the counties of Poitou, Anjou and Artois, and his sons with those of Clermont and Alençon. This practice, in later times, produced very mischievous consequences.

Under a second class of events that contributed to destroy the spirit of the feudal system, we may reckon the abolition of villenage; the increase of commerce, and consequent opulence of merchants and artizans; and especially the institution of free cities and boroughs. This is one of the most important and interesting steps in the progress of society during the middle ages, and deserves particular consideration.

Free and chartered towns.

The provincial cities under the Roman empire enjoyed, as is well known, a municipal magistracy and the right of internal regulation. It would not have been repugnant, perhaps, to the spirit of the Frank and Gothic conquerors, to have left them in possession of these privileges. But there seems no satisfactory proof that they were preserved either in France or in Italy;* or, if they existed at all, they were swept away, in the former country, during the confusion of the ninth century, which ended in the establishment of the feudal

* M. de Bréquigny says, that Lyons and Rheims can trace their own municipal government some centuries higher than the establishment of communes by Louis VI. The former city, which indeed was not French at that time, never had a charter of incorporation. Ordonnances des Rois, t. xi. préface, p. 4. This preface contains an excellent account of the origin and privileges of chartered towns in France.

system. Every town, except within the royal domains, was subject to some lord. In episcopal cities, the bishop possessed a considerable authority; and in many, there was a class of resident nobility. It is probable, that the proportion of freemen was always greater than in the country; some sort of retail trade, and even of manufacture, must have existed in the rudest of the middle ages, and consequently some little capital was required for their exercise. Nor was it so easy to oppress a collected body, as the scattered and dispirited cultivators of the soil. Probably therefore the condition of the towns was at all times by far the more tolerable servitude; and they might enjoy several immunities by usage, before the date of those charters which gave them sanction. In Provence, where the feudal star shone with a less powerful ray, the cities, though not independently governed, were more flourishing than the French. Marseilles, in the beginning of the twelfth age, was able to equip powerful navies, and to share in the wars of Genoa and Pisa against the Saracens of Sardinia.*

Earliest charters.

The earliest charters of community granted to towns in France have been commonly referred to the time of Louis the Sixth; though it is not im-

* There were more freemen in Provence, says an historian of the country, than in any other part of France; and the revolutions of the monarchy being less felt than elsewhere, our towns naturally preserved their municipal government. I have borrowed this quotation from Heeren, Essai sur l'Influence des Croisades, p. 122. to whom I am indebted for other assistance. Vaissette also thinks, that the inhabitants of towns in Languedoc were personally free in the tenth century, though those of the country were in servitude. Hist. de Languedoc, t. ii. p. 111.

probable, that some cities in the south had a municipal government by custom, if not by grant, at an earlier period.* Noyon, St. Quentin, Laon, and Amiens appeared to have been the first that received emancipation at the hands of this prince.†

* Ordonnances des Rois, ubi supra, p. 7. These charters are as old as 1110, but the precise date is unknown.

† The Benedictine historians of Languedoc are of opinion that the city of Nismes had municipal magistrates even in the middle of the tenth century, t. ii. p. 111. However this may be, the *citizens* of Narbonne are expressly mentioned in 1080. Appendix, p. 308. The *burgesses* of Carcassone appear by name in a charter of 1107. p. 515. In one of 1131, the *consuls* of Beziers are mentioned; they existed therefore previously. p. 409. and Appendix, p. 959. The magistrates of St. Antonin en Rouergue are named in 1136; those of Montpelier in 1142; of Narbonne in 1148; and of St. Gilles in 1149. pp. 515. 432. 442. 464. The capitouls of Toulouse pretend to an extravagant antiquity; but were in fact established by Alfonso count of Toulouse, who died in 1148. In 1152, Raymond V. confirmed the regulations made by the common council of Toulouse, which became the foundation of the customs of that city. p. 472.

If we may trust altogether to the Assises de Jérusalem in their present shape, the court of burgesses having jurisdiction over persons of that rank, was instituted by Godfrey of Bouillon, who died 1100. Ass. de Jérus. c. 2. This would be even earlier than the charter of London, granted by Henry I. Lord Lyttleton goes so far as to call it "certain, that in England many cities and towns were bodies corporate and communities long before the alteration introduced into France by the charters of Louis le Gros." Hist. of Henry II. vol. iv. p. 29. But this position, as I shall more particularly shew in another place, is not borne out by any good authority, if it extends to any internal jurisdiction, and management of their own police; whereof, except in the instance of London, we have no proof before the reign of Henry II.

But the incorporation of communities seems to have been decidedly earlier in Spain than in any other country. Alfonso V. in 1020, granted a charter to Leon, which is said to mention the common council of that city in terms that shew it to be an established institution. During the latter part of the eleventh century, as well as in subsequent times, such charters are very frequent. Marina, Ensayo Historico-Critico sobre las siete partidas. In several instances, we find concessions of smaller privileges to towns, without any political power. Thus Berenger, count of Barcelona, in 1025, confirms to the inhabitants of that city all the franchises which they already possess. These seem however to be confined to exemption from paying rent, and from any jurisdiction below that of an officer deputed by the count. De Marca, Marca Hispanica, p. 1038. Another grant occurs in the same volume, p. 909. from the bishop of Barcelona in favour of a town of his diocese. By

The chief towns in the royal domains were successively admitted to the same privileges during the reigns of Louis VI., Louis VII., and Philip Augustus. This example was gradually followed by the peers and other barons; so that by the end of the thirteenth century, the custom had prevailed over all France. It has been sometimes imagined, that the crusades had a material influence in promoting the erection of communities. Those expeditions would have repaid Europe for the prodigality of crimes and miseries which attended them, if this notion were founded in reality. But I confess, that in this, as in most

Causes of granting them not to be found in the crusades

some inattention, Robertson has quoted these charters as granted to "two villages in the county of Rousillon." Hist. Charles V. note 16. The charters of Tortosa and Lerida in 1149 do not contain any grant of jurisdiction. p. 1303.

The corporate towns in France and England always enjoyed fuller privileges, than these Catalonian charters impart. The essential characteristics of a commune, according to M. Bréquigny, were: an association confirmed by charter; a code of fixed sanctioned customs; and a set of privileges, always including municipal, or elective government. Ordonnances, ubi supra, p. 3. A distinction ought however to be pointed out, which is rather liable to elude observation, between communes, or corporate towns, and boroughs (bourgeoisies). The main difference was, that in the latter there was no elective government, the magistrates being appointed by the king, or other superior. In the possession of fixed privileges and exemptions, in the personal liberty of their inhabitants, and in the certainty of their legal usages, there was no distinction between corporate towns and mere boroughs; and indeed it is agreed, that every corporate town was a borough, though every borough was not a corporation.* The French antiquary quoted above does not trace these inferior communities or boroughs, higher than the charters of Louis VI. But we find the name, and a good deal of the substance, in England under William the Conqueror, as is manifest from Domesday Book.

* The preface to the twelfth volume of Ordonnances des Rois contains a full account of *bourgeoisies*, as that to the eleventh does of *communes*. A great part of it however is applicable to both species, or rather to the genus and the species. See too that to the fourteenth volume of Recueil des Historiens, p. 74.

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other respects, their beneficial consequences appear to me very much exaggerated. The cities of Italy obtained their internal liberties by gradual encroachments, and by the concessions of the Franconian emperors. Those upon the Rhine owed many of their privileges to the same monarchs, whose cause they had espoused in the rebellions of Germany. In France, the charters granted by Louis the Fat could hardly be connected with the first crusade, in which the crown had taken no part, and were long prior to the second. It was not till fifty years afterwards, that the barons seem to have trod in his steps by granting charters to their vassals, and these do not appear to have been particularly related in time to any of the crusades. Still less can the corporations, erected by Henry II. in England, be ascribed to these holy wars, in which our country had hitherto taken no considerable share.

nor in deliberate policy.

The establishment of chartered towns in France has also been ascribed to deliberate policy. "Louis the Gross," says Robertson, "in order to create some power that might counterbalance those potent vassals who controuled, or gave law to the crown, first adopted the plan of conferring new privileges on the towns situated within his own domain." Yet one does not immediately perceive, what strength the king could acquire by granting these extensive privileges within his own domains, if the great vassals were only weakened, as he asserts afterwards, by following his example. In what sense, besides, can it be

meant, that Noyon or Amiens, by obtaining certain franchises, became a power, that could counterbalance the duke of Normandy, or count of Champagne? It is more natural to impute this measure, both in the king and his barons, to their pecuniary exigencies; for we could hardly doubt that their concessions were sold at the highest price, even if the existing charters did not exhibit the fullest proof of it.* It is obvious, however, that the coarser methods of rapine must have grown obsolete, and the rights of the inhabitants of towns to property established, before they could enter into any compact with their lord for the purchase of liberty. Guibert, abbot of St. Nogent, near Laon, relates the establishment of a community in that city with circumstances that, in the main, might probably occur in any other place. Continual acts of violence and robbery having been committed, which there was no police adequate to prevent, the clergy and principal inhabitants agreed to enfranchise the populace for a sum of money, and to bind the whole society by regulations for general security. These conditions were gladly accepted; the money was paid, and the leading men swore to maintain the privileges of the inferior freemen. The bishop of Laon, who happened to be absent, at first opposed this new institution, but was ultimately induced by money to take a similar oath; and the community was confirmed by the king. Unluckily for

Circumstances attending the treaty of Laon.

* Ordonnances des Rois, t. xi. préface, p. 18. et 50.

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himself, the bishop afterwards annulled the charter; when the inhabitants, in despair at seeing themselves reduced to servitude, rose and murdered him. This was in 1112; and Guibert's narrative certainly does not support the opinion, that charters of community proceeded from the policy of government. He seems to have looked upon them with the jealousy of a feudal abbot, and blames the bishop of Amiens, for consenting to such an establishment in his city, from which, according to Guibert, many evils resulted. In his sermons, we are told, this abbot used to descant on "those execrable communities, where serfs against law and justice withdraw themselves from the power of their lords."*

In some cases they were indebted for success to their own courage and love of liberty. Oppressed by the exactions of their superiors, they had recourse to arms, and united themselves in a common league confirmed by oath, for the sake of redress. One of these associations took place at Mans as early as 1067, and, though it did not produce any charter of privileges, is a proof of the spirit to which ultimately the superior classes were obliged to submit.† Several charters bear witness, that this spirit of resistance was justified by oppression. Louis VII. frequently declares the tyranny exercised over the towns to be his motive for enfranchising them. Thus the charter

* Hist. Littéraire de la France, t. x. p. 448. Du Cange, voc. Communia.

† Recueil des Historiens, t. xiv. préface, p. 66.

of Mantes in 1150 is said to be given pro nimiâ oppressione pauperum: that of Compiegne in 1153, propter enormitates clericorum: that of Dourlens, granted by the count of Ponthieu in 1202, propter injurias et molestias a potentibus terræ burgensibus frequenter illatas.*

The extent of their privileges.

The privileges which these towns of France derived from their charters were surprizingly extensive; especially if we do not suspect some of them to be merely in confirmation of previous usages. They were made capable of possessing common property, and authorized to use a common seal as the symbol of their incorporation. The more oppressive and ignominious tokens of subjection, such as the fine paid to the lord for permission to marry their children, were abolished. Their payments of rent or tribute were limited both in amount and as to the occasions when they might be demanded; and these were levied by assessors of their own electing. Some obtained an exemption from assisting their lord in war; others were only bound to follow him when he personally commanded; and almost all limited their service to one, or at the utmost very few days. If they were persuaded to extend its duration, it was, like that of feudal tenants, at the cost of their superior. Their customs, as to succession and other matters of private right, were reduced to certainty, and, for the most part, laid down in the charter of incorporation. And the observation of these was

* Ordonnances des Rois, t. xi. préface, p. 17.

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secured by the most valuable privilege which the chartered towns obtained; that of exemption from the jurisdiction, as well of the royal, as the territorial judges. They were subject only to that of magistrates, either wholly elected by themselves, or in some places, with a greater or less participation of choice in the lord. They were empowered to make special rules, or, as we call them, bye-laws, so as not to contravene the provisions of their charter, or the ordinances of the king.*

Connexion of free towns with the king.

It was undoubtedly far from the intention of those barons who conferred such immunities upon their subjects, to relinquish their own superiority, and rights not expressly conceded. But a remarkable change took place in the beginning of the thirteenth century, which affected, in a high degree, the feudal constitution of France. Towns, distrustful of their lord's fidelity, sometimes called in the king as guarantee of his engagements. The first stage of royal interference led to a more extensive measure. Philip Augustus granted letters of safe-guard to communities dependent upon the barons, assuring to them his own protection and patronage.† And this was followed up so quickly by the court, if we believe some writers, that in the next reign, Louis VIII. pretended to the immediate sovereignty over all

* Ordonnances des Rois, préfaces aux tomes xi. et xii. Du Cange, voc. Communia, Hostis. Carpentier, Suppl. ad Du Cange, v. Hostis. Mably, Observations sur l'Hist. de France, l. iii. c. 7.

† Mably, ibid.

chartered towns, in exclusion of their original lords.* Nothing, perhaps, had so decisive an effect in subverting the feudal aristocracy. The barons perceived too late, that for a price long since lavished in prodigal magnificence, or useless warfare, they had suffered the source of their wealth to be diverted, and the nerves of their strength to be severed. The government prudently respected the privileges secured by charter. Philip the Long established an officer in all large towns to preserve peace by an armed police: but, though subject to the orders of the crown, he was elected by the burgesses; and they took a mutual oath of fidelity to each other. Thus shielded under the king's mantle, they ventured to encroach upon the neighbouring lords, and to retaliate for the long oppression of the commonalty.† Every citi-

* Reputabat civitates omnes suas esse, in quibus communiæ essent. I mention this in deference to Du Cange, Mably, and others, who assume the fact as incontrovertible; but the passage is only in a monkish chronicler, whose authority, were it even more explicit, would not weigh much in a matter of law. Beaumanoir however, sixty years afterwards, lays it down, that no one can erect a commune without the king's consent. c. 50. p. 268. And this was an unquestionable maxim in the fourteenth century. Ordonnances, t. xi. p. 29.

† In the charter of Philip Augustus to the town of Roye in Picardy we read: If any stranger, whether noble or villein, commits a wrong against the town, the mayor shall summon him to answer for it, and if he does not obey the summons, the mayor and inhabitants may go and destroy his house, in which we (the king) will lend them our assistance, if the house be too strong for the burgesses to pull down: except the case of one of our vassals, whose house shall not be destroyed; but he shall not be allowed to enter the town, till he has made amends at the discretion of the mayor and jurats. Ordonnances des Rois, t. xi. p. 228. This summary process could only, as I conceive, be employed, if the house was situated within the jurisdiction of the commune. See charter of Crespy, id. p. 253. In other cases, the application for redress was to be made in the first instance to the lord of the territory wherein the delinquent resided. But upon his

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zen was bound by oath to stand by the common cause against all aggressors, and this obligation was abundantly fulfilled. In order to swell their numbers, it became the practice to admit all who came to reside within their walls to the rights of burghership, even though they were villeins, appurtenant to the soil of a master, from whom they had escaped.* Others, having obtained the same privileges, continued to dwell in the country; but, upon any dispute with their lords, called in the assistance of their community. Philip the Fair, erecting certain communes in Languedoc, gave to any who would declare on oath that he was aggrieved by the lord or his officers, the right of being admitted a burgess of the next town, upon paying one mark of silver to the king, and purchasing a tenement of a definite value. But the neglect of this condition, and several other abuses, are enumerated in an instrument of Charles V., redressing the complaints made by the nobility and

failing to enforce satisfaction, the mayor and jurats might satisfy themselves; liceat justitiam quærere, prout poterunt; that is, might pull down his house, provided they could. Mably positively maintains the communes to have had the right of levying war. l. iii. c. 7. And Bréquigny seems to coincide with him, Ordonnances, préface, p. 46. See also Hist. de Languedoc, t. iii. p. 115. The territory of a commune was called Pax; (p. 185) an expressive word.

* One of the most remarkable privileges of chartered towns was that of conferring freedom on runaway serfs, if they were not reclaimed by their masters within a certain time. This was a pretty general law. Si quis nativus quietè per unum annum et unum diem in aliquâ villâ privilegiatâ manserit, ita quod in eorum communem gyldam tanquam civis receptus fuerit, eo ipso à villenagio liberabitur. Glanvil, l. v. c. 5. The cities of Languedoc had the same privilege. Vaissette, t. iii. p. 528. 530. And the editor of the Ordonnances speaks of it as general, p. 44. A similar custom was established in Germany; but the term of prescription was, in some places at least, much longer than a year and a day. Pfeffel, t. i. p. 294.

rich ecclesiastics of the neighbourhood.* In his reign, the feudal independence had so completely yielded, that the court began to give into a new policy, which was ever after pursued; that of maintaining the dignity and privileges of the noble class against those attacks which wealth and liberty encouraged the plebeians to make upon them.

Maritime towns peculiarly independent.

The maritime towns of the south of France entered into separate alliances with foreign states; as Narbonne with Genoa in 1166, and Montpelier in the next century. At the death of Raymond VII. Avignon, Arles and Marseilles affected to set up republican governments; but they were soon brought into subjection.† The independent character of maritime towns was not peculiar to those of the southern provinces. Edward II. and Edward III. negociated, and entered into alliances with the towns of Flanders, to which neither their count, nor the king of France were parties.‡ Even so late as the reign of Louis XI., the duke of Burgundy did not hesitate to address the citizens of Rouen, in consequence of the capture of some ships, as if they had formed an independent state.§ This evidently arose out of the ancient customs of private warfare, which, long after they were repressed by a stricter police at home, continued with lawless violence on the ocean, and gave a

* Martenne, Thesaur. Anecd. t. i. p. 1515.

† Velly, t. iv. p. 446. t. v. p. 97.

‡ Rymer, t. iv. passim.

§ Garnier, t. xvii. p. 396.

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character of piracy to the commercial enterprize of the middle ages.

Military service of feudal tenants commuted for money.

Notwithstanding the forces which in opposite directions assailed the feudal system, from the enhancement of royal prerogative, and the elevation of the chartered towns, its resistance would have been much longer, but for an intrinsic decay. No political institution can endure, which does not rivet itself to the hearts of men, by ancient prejudice, or acknowledged interest. The feudal compact had originally much of this character. Its principle of vitality was warm and active. In fulfilling the obligations of mutual assistance and fidelity by military service, the energies of friendship were awakened, and the ties of moral sympathy superadded to those of positive compact. While private wars were at their height, the connexion of lord and vassal grew close and cordial, in proportion to the keenness of their enmity towards others. It was not the object of a baron to disgust and impoverish his vavassors by enhancing the profits of seigniory; for there was no rent of such price as blood, nor any labour so serviceable as that of the sword.

But the nature of feudal obligation was far better adapted to the partial quarrels of neighbouring lords than to the wars of kingdoms. Customs, founded upon the poverty of the smaller gentry, had limited their martial duties to a period never exceeding forty days, and diminished according to the subdivisions of the fief. They could undertake an expedition, but not a campaign; they could

burn an open town, but had seldom leisure to besiege a fortress. Hence, when the kings of France and England were engaged in wars, which, on our side at least, might be termed national, the inefficiency of the feudal militia became evident. It was not easy to employ the military tenants of England upon the frontiers of Normandy and the Isle of France, within the limits of their term of service. When under Henry II. and Richard I., the scene of war was frequently transferred to the Garonne or the Charente, this was still more impracticable. The first remedy to which sovereigns had recourse, was to keep their vassals in service after the expiration of their forty days, at a stipulated rate of pay.* But this was frequently neither convenient to the tenant, anxious to return back to his household, nor to the king, who could not readily defray the charges of an army.† Something was to be devised more adequate to the exigency, though less suitable to the feudal spirit. By the feudal law, the fief was, in strictness, forfeited by neglect of attendance upon the lord's expedition. A milder usage introduced a fine, which, however, was generally rather heavy, and assessed at discretion. An instance of this kind has been noticed in an earlier part of the present

* Du Cange, et Carpentier, voc. Hostis.

† There are several instances, where armies broke up, at the expiration of their limited term of service, in consequence of disagreement with the sovereign. Thus, at the siege of Avignon in 1226, Theobald count of Champagne retired with his troops, that he might not promote the king's designs upon Languedoc. At that of Angers in 1230, nearly the same thing occurred. M. Paris, p. 303.

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chapter, from the muster-roll of Philip the Bold's expedition against the count de Foix. The first Norman kings of England made these amercements very oppressive. But when a pecuniary payment became the regular course of redeeming personal service, which, under the name of escuage, may be referred to the reign of Henry II., it was essential to liberty, that the military tenant should not lie at the mercy of the crown.* Accordingly, one of the most important provisions contained in the Magna Charta of John, secures the assessment of escuage in parliament. This is not renewed in the charter of Henry III., but the practice during his reign was conformable to its spirit.

The feudal military tenures had superseded that earlier system of public defence, which called upon every man, and especially every land-holder, to protect his country.† The relations of a vassal

* Madox, Hist. of Exchequer, c. 16. conceives that escuage may have been levied by Henry I.; the earliest mention of it, however, in a record is under Henry II. in 1159. Lyttleton's Hist. of Henry II. vol. iv. p. 13.

† Every citizen, however extensive may be his privileges, is naturally bound to repel invasion. A common rising of the people in arms, though not always the most convenient mode of resistance, is one to which all governments have a right to resort. Volumus, says Charles the Bald, ut cujuscunque nostrum homo, in cujuscunque regno sit, cum seniore suo in hostem, vel aliis suis utilitatibus pergat; nisi talis regni invasio, quam *Lantweri* dicunt, (quod absit) acciderit, ut omnis populus illius regni ad eam repellendam communiter pergat. Baluzii Capitularia, t. ii. p. 44. This very ancient mention of the *Landwehr*, or insurrectional militia, so signally called forth in the present age, will strike the reader. The obligation of bearing arms in defensive war was peculiarly incumbent on the freeholder, or alodialist. It made part of the trinoda necessitas in England, erroneously confounded by some writers with a feudal military tenure. But when these latter tenures became nearly universal, the original principles of public defence were almost obliterated; and I know not how far alodial proprietors, where they existed, were called upon for service. Kings did not

came in place of those of a subject and a citizen. This was the revolution of the ninth century. In the twelfth and thirteenth, another innovation, rather more gradually prevailed, and marks the third period in the military history of Europe. Mercenary troops were substituted for the feudal militia. Undoubtedly there could never have been a time, when valour was not to be purchased with money; nor could any employment of surplus wealth be more natural either to the ambitious or the weak. But we cannot expect to find numerous testimonies of facts of this description.* In public national history, I am aware of no instance of what

Employment of mercenary troops.

however always dispense with such aid as the lower people could supply. Louis the Fat called out the militia of towns and parishes under their priests, who marched at their head, though they did not actually command them in battle. In the charters of incorporation which towns received, the number of troops required was usually expressed. These formed the infantry of the French armies, perhaps more numerous than formidable to an enemy. In the war of the same prince with the emperor Henry V. all the population of the frontier provinces was called out; for the militia of the counties of Rheims and Chalons is said to have amounted to sixty thousand men. Philip IV. summoned one foot-soldier for every twenty hearths to take the field after the battle of Courtrai. (Daniel, Hist. de la Milice Française: Velly, t. iii. p. 62. t. vii. p. 287.) Commissions of array, either to call out the whole population, or, as was more common, to select the most serviceable by forced impressment, occur in English records from the reign of Edward I. (Stuart's View of Society, p. 400.) and there are even several writs directed to the bishops, enjoining them to cause all ecclesiastical persons to be arrayed and armed on account of an expected invasion. Rymer, t. vi. p. 726. (46 E. III.) t. vii. p. 162. (1 R. II.) and t. viii. p. 270. (3 H. IV.)

* The preface to the eleventh volume of Recueil des Historiens, p. 232. notices the word solidarii, for hired soldiers, as early as 1030. It was probably unusual at that time; though in Roger Hoveden, Ordericus Vitalis, and other writers of the twelfth century, it occurs not very unfrequently. We may perhaps conjecture the abbots, as both the richest and the most defenceless, to have been the first who availed themselves of mercenary valour.

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may be called a regular army, (unless we consider the Antrustions of the Merovingian kings as such,) more ancient than the body guards, or huscarles, of Canute the Great. These select troops amounted to six thousand men, on whom he probably relied to ensure the subjection of England. A code of martial law compiled for their regulation is extant in substance; and they are reported to have displayed a military spirit of mutual union, of which their master stood in awe.* Harold II. is also said to have had Danish soldiers in pay. But the most eminent example in that age of a mercenary army is that by whose assistance William achieved the conquest of England. Historians concur in representing this force to have consisted of sixty thousand men. He afterwards hired soldiers from various regions to resist an invasion from Norway. William Rufus pursued the same course. Hired

* For these facts, of which I remember no mention in English history, I am indebted to the Danish collection of Langebek, Scriptores Rerum Danicarum Medii Ævi. Though the Leges Castrenses Canuti Magni, published by him, t. iii. p. 141. are not in their original statutory form, they proceed from the pen of Sweno, the earliest Danish historian, who lived under Waldemar I., less than a century and a half after Canute. I apply the word huscarle, familiar in Anglo-Saxon documents, to these military retainers, on the authority of Langebek in another place, t. ii. p. 454. The object of Canute's institutions was to produce an uniformity of discipline and conduct among his soldiers, and thus to separate them more decidedly from the people. They were distinguished by their dress and golden ornaments. Their manners towards each other were regulated; quarrels and abusive words subjected to a penalty. All disputes, even respecting lands, were settled among themselves at their general parliament. A singular story is told, which, if false, may still illustrate the traditionary character of these guards; that Canute having killed one of their body in a fit of anger, it was debated whether the king should incur the legal penalty of death; and this was only compromised by his kneeling on a cushion before the assembly, and awaiting their permission to rise. t. iii. p. 150.

troops did not, however, in general form a considerable portion of armies, till the wars of Henry II. and Philip Augustus. Each of these monarchs took into pay large bodies of mercenaries, chiefly, as we may infer from their appellation of Brabançons, enlisted from the Netherlands. These were always disbanded on cessation of hostilities; and unfit for any habits but of idleness and licence, oppressed the peasantry and ravaged the country without controul. But their soldier-like principles of indiscriminate obedience, still more than their courage and field-discipline, rendered them dear to kings, who dreaded the free spirit of a feudal army. It was by such a foreign force, that John saw himself on the point of abrogating the Great Charter, and reduced his barons to the necessity of tendering the kingdom to a prince of France.*

It now became manifest, that the probabilities of war inclined to the party, who could take the field with selected and experienced soldiers. The command of money was the command of armed hirelings, more sure and steady in battle, as we must confess with shame, than the patriot-citizen. Though the nobility still composed in a great degree the strength of an army, yet they served in a new character; their animating spirit was that of chivalry, rather than of feudal tenure; their connexion with a superior was personal, rather than territorial. The crusades had probably a material tendency to effectuate this revolution, by substi-

* Matt. Paris.

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tuting, what was inevitable in those expeditions, a voluntary stipendiary service for one of absolute obligation.* It is the opinion of Daniel, that in the thirteenth century all feudal tenants received pay, even during their prescribed term of service.† This does not appear consonant to the law of fiefs; yet their poverty may often have rendered it impossible to defray the cost of equipment on distant expeditions. A large proportion of the expense must in all cases have fallen upon the lord; and hence that perpetually increasing taxation, the effects whereof we have lately been investigating.

A feudal army, however, composed of all tenants in chief and their vassals, still presented a formidable array. It is very long before the paradox is generally admitted, that numbers do not necessarily contribute to the intrinsic efficiency of armies. Philip IV. assembled a great force by publishing the arriere-ban, or feudal summons, for his unhappy expedition against the Flemings. A small and more disciplined body of troops would not, probably, have met with the discomfiture of Courtray. Edward I. and Edward II. frequently

* Joinville, in several passages, intimates that most of the knights serving in St. Louis's crusade received pay, either from their superior lord, if he were on the expedition, or from some other, into whose service they entered for the time. He set out himself with ten knights, whom he afterwards found it difficult enough to maintain. Collection des Mémoires, t. i. p. 49. and t. ii. p. 53.

† Hist. de la Milice Française, p. 84.

The use of mercenary troops prevailed much in Germany during the thirteenth century. Schmidt, t. iv. p. 89. In Italy, it was also very common; though its general adoption is to be referred to the commencement of the succeeding age.

called upon those who owed military service, in their invasions of Scotland.* But in the French wars of Edward III. the whole, I think, of his army served for pay, and was raised by contract with men of rank and influence, who received wages for every soldier according to his station and the arms he bore. The rate of pay was so remarkably high, that, unless we imagine a vast profit to have been intended for the contractors, the private lancers and even archers must have been chiefly taken from the middling classes, the smaller gentry, or rich yeomanry, of England.† This part of Edward's military system was probably a leading cause of his superiority over the French, among whom the feudal tenantry were called into the field, and swelled their unwieldy armies at Crecy and Poitiers. Both parties, however, in this war employed mercenary troops. Philip had 15,000 Italian cross-bow-men at Crecy. It had for some time before become the trade of soldiers of fortune, to enlist under leaders of the same description as themselves in companies of adventure, passing from one service to another, unconcerned as to the

* Rymer, t. ii. p. 173. 189. 199. et alibi sæpies.

† Many proofs of this may be adduced from Rymer's Collection. The following is from Brady's History of England, vol. ii. Appendix, p. 86. The wages allowed by contract, in 1346, were for an earl, 6s. 8d. per day; for barons and bannerets, 4s.; for knights, 2s.; for squires, 1s.; for archers and hobelers (light cavalry), 6d.; for archers on foot, 3d.; for Welshmen, 2d. These sums, multiplied by about 24, to bring them on a level with the present value of money, will shew the pay to have been extremely high. The cavalry, of course, furnished themselves with horses and equipments, as well as arms, which were very expensive. See too Chap. I. p. 106 of this volume.

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cause in which they were retained. These military adventurers played a more remarkable part in Italy than in France, though not a little troublesome to the latter country. The feudal tenures had at least furnished a loyal native militia, whose duties, though much limited in extent, were defined by usage, and enforced by principle. They gave place in an evil hour for the people, and eventually for sovereigns, to contracts with mutinous hirelings, frequently strangers, whose valour in the day of battle inadequately redeemed their bad faith and vexatious rapacity. France, in her calamitous period under Charles VI. and Charles VII. experienced the full effects of military licentiousness. At the expulsion of the English, robbery and disorder were substituted for the more

Establishment of a regular force by Charles VII.

specious plundering of war. Perhaps few measures have ever been more popular, as few certainly have been more politic, than the establishment of regular companies of troops by an ordinance of Charles VII. in 1444.* These may justly pass for the first example of a standing army in Europe; though some Italian princes had retained troops constantly in their pay, but prospectively to hostilities, which were seldom long intermitted. Fifteen companies were composed each of a hundred men at arms, or lancers; and, in the language of that age, the whole body was one thousand five hundred lances. But each

* The estates at Orleans in 1439 had advised this measure, as is recited in the preamble of the ordinance. Ordonnances des Rois, t. xii. p. 312.

lancer had three archers, a coutiller, or soldier armed with a knife, and a page or valet attached to him, all serving on horseback; so that the fifteen companies amounted to nine thousand cavalry.* From these small beginnings, as they must appear in modern times, arose the regular army of France, which every succeeding king was solicitous to augment. The ban was sometimes convoked, that is, the possessors of fiefs were called upon for military service in subsequent ages; but with more of ostentation, than real efficiency.

Decay of feudal principles.

The feudal compact, thus deprived of its original efficacy, soon lost the respect and attachment which had attended it. Homage and investiture became unmeaning ceremonies; the incidents of relief and aid were felt as burthensome exactions. And indeed the rapacity with which these were levied, especially by our Norman sovereigns and their barons, was of itself sufficient to extinguish all the generous feelings of vassalage. Thus galled, as it were, by the armour which he was compelled to wear, but not to use, the military tenant of England looked no longer with contempt upon the owner of land in socage, who held his estate with almost the immunities of an alodial proprietor. But the profits which the crown reaped from wardships, and perhaps the prejudices of lawyers, prevented the abolition of military

* Daniel, Hist. de la Milice Française, p. 266. Villaret, Hist. de France, t. xv. p. 394.

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tenures till the restoration of Charles II. In France, the fiefs of noblemen were very unjustly exempted from all territorial taxation; though the tailles of later times had, strictly speaking, only superseded the aids to which they had been always liable. This distinction, it is well known, was not annihilated till that event which annihilated all distinctions, the French revolution.

It is remarkable, that, although the feudal system established in England upon the conquest broke in very much upon our ancient Saxon liberties; though it was attended with harsher servitudes than in any other country, particularly those two intolerable burthens, wardship and marriage; yet it has in general been treated with more favour by English than French writers. The hardiness with which the ancient barons resisted their sovereign, and the noble struggles which they made for civil liberty, especially in that Great Charter, the basement at least, if not the foundation, of our free constitution, have met with a kindred sympathy in the bosoms of Englishmen; while from an opposite feeling, the French have been shocked at that aristocratic independence, which cramped the prerogatives, and obscured the lustre, of their crown. Yet it is precisely to this feudal policy, that France is indebted for that which is ever dearest to her children; their national splendour and power. That kingdom would have been irretrievably dismembered in the tenth century, if the laws of feudal dependence had not preserved its integrity. Empires of un-

wieldy bulk, like that of Charlemagne, have several times been dissolved by the usurpation of provincial governors, as is recorded both in ancient history and in that of the Mahometan dynasties in the east. What question can there be, that the powerful dukes of Guienne or counts of Toulouse would have thrown off all connexion with the crown of France, when usurped by one of their equals, if the slight dependence of vassalage had not been substituted for legitimate subjection to a sovereign?

It is the previous state of society under the grand-children of Charlemagne, which we must always keep in mind, if we would appreciate the effects of the feudal system upon the welfare of mankind. The institutions of the eleventh century must be compared with those of the ninth, not with the advanced civilization of modern times. If the view that I have taken of those dark ages is correct, the state of anarchy, which we usually term feudal, was the natural result of a vast and barbarous empire feebly administered, and the cause, rather than effect of the general establishment of feudal tenures. These, by preserving the mutual relations of the whole, kept alive the feeling of a common country and common duties; and settled, after the lapse of ages, into the free constitution of England, the firm monarchy of France, and the federal union of Germany.

General estimate of the advantages

The utility of any form of polity may be estimated, by its effect upon national greatness and

CHAP. II. PART II. FEUDAL SYSTEM.

and evils resulting from the feudal system.

security, upon civil liberty and private rights, upon the tranquillity and order of society, upon the increase and diffusion of wealth, or upon the general tone of moral sentiment and energy. The feudal constitution was certainly, as has been observed already, little adapted for the defence of a mighty kingdom, far less for schemes of conquest. But as it prevailed alike in several adjacent countries, none had any thing to fear from the military superiority of its neighbours. It was this inefficiency of the feudal militia, perhaps, that saved Europe during the middle ages from the danger of universal monarchy. In times, when princes had little notion of confederacies for mutual protection, it is hard to say, what might not have been the successes of an Otho the Great, a Frederic Barbarossa, or a Philip Augustus, if they could have wielded the whole force of their subjects whenever their ambition required. If an empire equally extensive with that of Charlemagne, and supported by military despotism, had been formed about the twelfth or thirteenth centuries, the seeds of commerce and liberty, just then beginning to shoot, would have perished; and Europe, reduced to a barbarous servitude, might have fallen before the free barbarians of Tartary.

If we look at the feudal polity as a scheme of civil freedom, it bears a noble countenance. To the feudal law it is owing, that the very names of right and privilege were not swept away, as in Asia, by the desolating hand of power. The

tyranny which, on every favourable moment, was breaking through all barriers, would have rioted without controul, if, when the people were poor and disunited, the nobility had not been brave and free. So far as the sphere of feudality extended, it diffused the spirit of liberty, and the notions of private right. Every one, I think, will acknowledge this, who considers the limitations of the services of vassalage, so cautiously marked in those law-books which are the records of customs, the reciprocity of obligation between the lord and his tenant, the consent required in every measure of a legislative or a general nature, the security, above all, which every vassal found in the administration of justice by his peers, and even (we may in this sense say) in the trial by combat. The bulk of the people, it is true, were degraded by servitude; but this had no connection with the feudal tenures.

The peace and good order of society were not promoted by this system. Though private wars did not originate in the feudal customs, it is impossible to doubt, that they were perpetuated by so convenient an institution, which indeed owed its universal establishment to no other cause. And as predominant habits of warfare are totally irreconcileable with those of industry, not merely by the immediate works of destruction which render its efforts unavailing, but through that contempt of peaceful occupations which they produce, the feudal system must have been intrinsically adverse to the accumulation of wealth, and the improve-

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ment of those arts, which mitigate the evils or abridge the labours of mankind.

But as the school of moral discipline, the feudal institutions were perhaps most to be valued. Society had sunk, for several centuries after the dissolution of the Roman empire, into a condition of utter depravity; where, if any vices could be selected as more eminently characteristic than others, they were falsehood, treachery, and ingratitude. In slowly purging off the lees of this extreme corruption, the feudal spirit exerted its ameliorating influence. Violation of faith stood first in the catalogue of crimes, most repugnant to the very essence of a feudal tenure, most severely and promptly avenged, most branded by general infamy. The feudal law-books breathe throughout a spirit of honourable obligation. The feudal course of jurisdiction promoted, what trial by peers is peculiarly calculated to promote, a keener feeling and readier perception of moral as well as of leading distinctions. And as the judgement and sympathy of mankind are seldom mistaken, in these great points of veracity and justice, except through the temporary success of crimes, or the want of a definite standard of right, they gradually recovered themselves, when law precluded the one, and supplied the other. In the reciprocal services of lord and vassal, there was ample scope for every magnanimous and disinterested energy. The heart of man, when placed in circumstances which have a tendency to excite them, will seldom be deficient in such sentiments. No occasions could be more favourable, than the protection of a

faithful supporter, or the defence of a beneficent suzerain, against such powerful aggression, as left little prospect except of sharing in his ruin.

From these feelings engendered by the feudal relation has sprung up the peculiar sentiment of personal reverence and attachment towards a sovereign, which we denominate loyalty; alike distinguishable from the stupid devotion of eastern slaves, and from the abstract respect with which free citizens regard their chief magistrate. Men who had been used to swear fealty, to profess subjection, to follow, at home and in the field, a feudal superior and his family, easily transferred the same allegiance to the monarch. It was a very powerful feeling, which could make the bravest man put up with slights and ill treatment at the hands of their sovereign; or call forth all the energies of disinterested exertion for one whom they never saw, and in whose character there was nothing to esteem. In ages when the rights of the community were unfelt, this sentiment was one great preservative of society; and, though collateral or even subservient to more enlarged principles, it is still indispensable to the tranquillity and permanence of every monarchy. In a moral view, loyalty has scarcely perhaps less tendency to refine and elevate the heart than patriotism itself; and holds a middle place in the scale of human motives, as they ascend from the grosser inducements of self-interest, to the furtherance of general happiness and conformity to the purposes of Infinite Wisdom.

CHAPTER III.

THE HISTORY OF ITALY, FROM THE EXTINCTION OF THE CARLOVINGIAN EMPERORS TO THE INVASION OF NAPLES BY CHARLES VIII.

PART I.

*State of Italy after the death of Charles the Fat—Coronation of Otho the Great—State of Rome—Conrad II.—Union of the Kingdom of Italy with the Empire—Establishment of the Normans in Naples and Sicily—Roger Guiscard—Rise of the Lombard Cities—They gradually become more independent of the Empire—Their internal Wars—Frederic Barbarossa—Destruction of Milan—Lombard League—Battle of Legnano—Peace of Constance—Temporal Principality of the Popes—Guelf and Ghibelin Factions—Otho IV.—Frederic II.—Arrangement of the Italian Republics—Second Lombard War—Extinction of the House of Swabia—Causes of the Success of Lombard Republics—Their Prosperity—and Forms of Government—Contentions between the Nobility and People—Civil Wars—Story of Giovanni di Vicenza.**

CHAP. III. PART I.

ITALY.

State of Italy at the end of the ninth century.

At the death of Charles the Fat in 888, that part of Italy which acknowledged the supremacy of

* The authorities upon which this chapter is founded, and which do not always appear at the foot of the page, are chiefly the following. 1. Muratori's Annals of Italy (twelve volumes in 4to. or eighteen in 8vo.) comprehend a summary of its history from the beginning of the Christian æra to the peace of Aix la Chapelle. The volumes relating to the middle ages, into which he has digested the ori-

the western empire was divided, like France and Germany, among a few powerful vassals, heredi-

ginal writers contained in his great collection, Scriptores Rerum Italicarum, are by much the best; and of these, the part which extends from the seventh or eighth to the end of the twelfth century is the fullest and most useful. Muratori's accuracy is in general almost implicitly to be trusted, and his plain integrity speaks in all his writings; but his mind was not philosophical enough to discriminate the wheat from the chaff, and his habits of life induced him to annex an imaginary importance to the dates of diplomas and other inconsiderable matters. His narrative presents a mere skeleton devoid of juices; and besides its intolerable aridity, it labours under that confusion which a merely chronological arrangement of concurrent and independent events must always produce. 2. The dissertations on Italian Antiquities, by the same writer, may be considered either as one, or two works. In Latin, they form six volumes in folio, enriched with a great number of original documents. In Italian, they are freely translated by Muratori himself, abridged no doubt, and without most of the original instruments, but well furnished with quotations, and abundantly sufficient for most purposes. They form three volumes in quarto. I have in general quoted only the number of the dissertation, on account of the variance between the Latin and Italian works: in cases where the page is referred to, I have indicated, by the title, which of the two I intend to vouch. 3. St. Marc, a learned and laborious Frenchman, has written a chronological abridgement of Italian history, somewhat in the manner of Hénault, but so strangely divided by several parallel columns in every page, that I could hardly name a book more inconvenient to the reader. His knowledge, like Muratori's, lay a good deal in points of minute inquiry; and he is chiefly to be valued in ecclesiastical history. The work descends only to the thirteenth century. 4. Denina's Rivoluzioni d'Italia, originally published in 1769, is a perspicuous and lively book, in which the principal circumstances are well selected. It is not perhaps free from errors in fact, and still less from those of opinion; but, till lately, I do not know from what source a general acquaintance with the history of Italy could have been so easily derived. 5. The publication of M. Sismondi's Histoire des Républiques Italiennes has thrown a blaze of light around the most interesting, at least in many respects, of European countries during the middle ages. I am happy to bear witness, so far as my own studies have enabled me, to the learning and diligence of this writer; qualities which the world is sometimes apt not to suppose, where they perceive so much eloquence and philosophy. I cannot express my opinion of M. Sismondi in this respect more strongly than by saying that his work has almost superseded the annals of Muratori; I mean from the twelfth century, before which period his labour hardly begins. Though doubtless not more accurate than Muratori, he has consulted a much more extensive list of authors; and, considered as a

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tary governors of provinces. The principal of these were the dukes of Spoleto and Tuscany, the marquises of Ivrea, Susa, and Friuli. The great Lombard duchy of Benevento, which had stood against the arms of Charlemagne, and comprised more than half the present kingdom of Naples, had now fallen into decay, and was straightened by the Greeks in Apulia, and by the principalities of Capua and Salerno, which had been severed from its own territory, on the opposite coast.*

And in the first part of the tenth.

Though princes of the Carlovingian line continued to reign in France, their character was too little distinguished to challenge the obedience of Italy,

register of facts alone, his history is incomparably more useful. These are combined in so skilful a manner, as to diminish, in a great degree, that inevitable confusion which arises from frequency of transition, and want of general unity. It is much to be regretted, that from too redundant details of unnecessary circumstances, and sometimes, if I may take the liberty of saying so, from unnecessary reflections, M. Sismondi has run into a prolixity which will probably intimidate the languid students of our age. It is the more to be regretted, because the History of Italian Republics is calculated to produce a good far more important than storing the memory with historical facts, that of communicating to the reader's bosom some sparks of the dignified philosophy, the love for truth and virtue, which lives along its eloquent pages. 6. To Muratori's collection of original writers, the Scriptores Rerum Italicarum, in twenty-four volumes in folio, I have paid considerable attention; perhaps there is no volume of it, which I have not more or less consulted. But, after the annals of the same writer, and the work of M. Sismondi, I have not thought myself bound to repeat a laborious search into all the authorities upon which those writers depend. The utility, for the most part, of perusing original and contemporary authors, consists less in ascertaining mere facts, than in acquiring that insight into the spirit and temper of their times, which it is utterly impracticable for any compiler to impart. It would be impossible for me to distinguish what information I have derived from these higher sources; in cases therefore, where no particular authority is named, I would refer to the writings of Muratori and Sismondi, especially the latter, as the substratum of the following chapter.

* Giannone, Istoria Civile di Napoli, l. vii. Sismondi, Hist. des Républiques Italiennes, t. i. p. 244.

already separated by family partitions from the Transalpine nations; and the only contest was among her native chiefs. One of these, Berenger, originally marquis of Friuli, or the March of Treviso, reigned for thirty-six years, but with continually disputed pretensions; and after his death, the calamities of Italy were sometimes aggravated by tyranny, and sometimes by intestine war. The Hungarians desolated Lombardy; the southern coasts were infested by the Saracens, now masters of Sicily. Plunged in an abyss from which she saw no other means of extricating herself, Italy lost sight of her favourite independence, and called in the assistance of Otho the First, king of Germany. Little opposition was made to this powerful monarch. Berenger II. the reigning sovereign of Italy, submitted to hold the kingdom of him as a fief.* But some years afterwards, new disturbances arising, Otho descended from the Alps a second time, deposed Berenger, and received at the hands of Pope John XII. the imperial dignity, which had been suspended for nearly forty years.

Otho the Great. 961

Every ancient prejudice, every recollection, whether of Augustus or of Charlemagne, had led the Italians to annex the notion of sovereignty to the name of Roman Emperor; nor were Otho, or his two immediate descendants, by any means inclined to wave these supposed prerogatives which they were well able to enforce. Most of the Lom-

* Muratori, A.D. 951. Denina, Rivoluzioni d'Italia, l. ix. c. 6.

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bard princes acquiesced without apparent repugnance in the new German government, which was conducted by Otho the Great with much prudence and vigour, and occasionally with severity. The citizens of Lombardy were still better satisfied with a change, that ensured a more tranquil and regular administration than they had experienced under the preceding kings. But in one, and that the chief of Italian cities, very different sentiments were prevalent. We find indeed a considerable obscurity spread over the internal history of Rome, during the long period from the recovery of Italy by Belisarius to the end of the eleventh century. The popes appear to have possessed some measure of temporal power, even while the city was professedly governed by the exarchs of Ravenna, in the name of the eastern empire. This power became more extensive after her separation from Constantinople. It was however subordinate to the undeniable sovereignty of the new imperial family, who were supposed to enter upon all the rights of their predecessors. There was always an imperial officer, or prefect, in that city to render criminal justice; an oath of allegiance to the emperor was taken by the people; and upon any irregular election of a pope, a circumstance by no means unusual, the emperors held themselves intitled to interpose. But the spirit and even the institutions of the Romans were republican. Amidst the darkness of the tenth century, which no contemporary historian dissipates, we faintly distinguish the aweful names of senate, consuls, and

Internal state of Rome.

tribunes, the domestic magistracy of Rome. These shadows of past glory strike us at first with surprize; yet there is no improbability in the supposition, that a city so renowned and populous, and so happily sheltered from the usurpation of the Lombards, might have preserved, or might afterwards establish, a kind of municipal government, which it would be natural to dignify with those august titles of antiquity.* During that anarchy which ensued upon the fall of the Carlovingian dynasty, the Romans acquired an independence, which they did not deserve. The city became a prey to the most terrible disorders; the papal chair was sought for at best by bribery, or controuling influence, often by violence and assassination; it was filled by such men as naturally rise by such means, whose sway was precarious, and generally ended either in their murder or degradation. For many years the supreme pontiffs were forced upon the church by two women of high rank, but infamous reputation, Theodora and her daughter Marozia. The kings of Italy, whose election in a diet of Lombard princes and bishops at Roncaglia was not conceived to convey any pretension to the sovereignty of Rome, could never obtain any decided influence in papal elections, which were the object of struggling factions among the resident nobility. In this temper of the Romans, they were ill disposed to resume habits of obedience to a foreign sovereign. The next year after Otho's coronation, they rebelled, 962

* Muratori, A.D. 967. 987. 1015. 1087. Sismondi, t. i. p. 155.

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the pope at their head; but were of course subdued without difficulty. The same republican spirit broke out whenever the emperors were absent in Germany, especially during the minority of Otho III. and directed itself against the temporal superiority of the pope. But when that emperor attained manhood, he besieged and took the city, crushing all resistance by measures of severity; and especially by the execution of the consul Crescentius, a leader of the popular faction, to whose instigation the tumultuous licence of Rome was principally ascribed.*

Henry II. and Ardoin.

At the death of Otho III. without children, in 1002, the compact between Italy and the emperors of the house of Saxony was determined. Her engagement of fidelity was certainly not applicable to every sovereign whom the princes of Germany might raise to their throne. Accordingly Ardoin marquis of Ivrea was elected king of Italy. But a German party existed among the Lombard princes and bishops, to which his insolent demeanour soon gave a pretext for inviting Henry II. the new king of Germany, collaterally related to their late sovereign. Ardoin was deserted by most of the Italians, but retained his former subjects in Piedmont, and disputed the crown for many years with Henry, who passed very little time in Italy. During this period there was hardly any recog-

* Sismondi, t. i. p. 164. makes a patriot hero of Crescentius. But we know so little of the man or the times, that it seems better to follow the common tenor of history, without vouching for the accuracy of its representations.

nized government; and the Lombards became more and more accustomed, through necessity, to protect themselves, and to provide for their own internal police. Meanwhile the German nation had become odious to the Italians. The rude soldiery, insolent and addicted to intoxication, were engaged in frequent disputes with the citizens, wherein the latter, as is usual in similar cases, were exposed first to the summary vengeance of the troops, and afterwards to penal chastisement for sedition.* In one of these tumults, at the entry of Henry II. in 1004, the city of Pavia was burned to the ground, which inspired its inhabitants with a constant animosity against that emperor. Upon his death in 1024, the Italians were disposed to break once more their connexion with Germany, which had elected as sovereign Conrad, duke of Franconia. They offered their crown to Robert king of France, and to William duke of Guienne; but neither of them was imprudent enough to involve himself in the difficult and faithless politics of Italy. It may surprize us that no candidate appeared from among her native princes. But it had been the dexterous policy of the Othos to weaken the great Italian fiefs, which were still rather considered as hereditary governments, than as absolute patrimonies, by separating districts from their jurisdiction, under inferior marquises and rural counts.† The bishops were incapable of

* Muratori, A.D. 1027. 1037.

† Denina, l. ix. c. 11. Muratori, Antiq. Ital. Dissert. 8. Annali d'Italia. A.D. 989.

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Election of Conrad II. 1024

becoming competitors, and generally attached to the German party. The cities already possessed material influence, but were disunited by mutual jealousies. Since ancient prejudices, therefore, precluded a federate league of independent principalities and republics, for which perhaps the actual condition of Italy unfitted her, Eribert, archbishop of Milan, accompanied by some other chief men of Lombardy, repaired to Constance, and tendered the crown to Conrad, which he was already disposed to claim as a sort of dependency upon Germany. It does not appear that either Conrad, or his successors, were ever regularly elected to reign over Italy;* but whether this ceremony took place or not, we may certainly date from that time the subjection of Italy to the Germanic body. It became an unquestionable maxim, that the votes of a few German princes conferred a right to the sovereignty of a country which had never been conquered, and which had never formally recognized this superiority.† But it was an equally funda-

* Muratori, A.D. 1026. It is said afterwards, p. 367, that he was a Romanis ad Imperatorem electus. The people of Rome therefore preserved their nominal right of concurring in the election of an emperor. Muratori, in another place, A.D. 1040, supposes that Henry III. was chosen king of Italy, though he allows that no proof of it exists; and there seems no reason for the supposition.

† Gunther, the poet of Frederic Barbarossa, expresses this not inelegantly.

Romani gloria regni
Nos penes est; quemcunque sibi Germania regem
Præficit, hunc dives submisso vertice Roma
Accipit, et verso Tiberim regit ordine Rhenus.

Gunther. Ligurinus ap. Struvium Corpus Hist. German. p. 266.

Yet it appears from Otho of Frisingen, an unquestionable authority, that some Italian nobles concurred, or at least were present and assisting, in the election of Frederic himself. l. ii. c. i.

mental rule, that the elected king of Germany could not assume the title of Roman Emperor, until his coronation by the pope. The middle appellation of King of the Romans was invented as a sort of approximation to the imperial dignity. But it was not till the reign of Maximilian that the actual coronation at Rome was dispensed with, and the title of emperor taken immediately after the election.

The period between Conrad of Franconia and Frederic Barbarossa, or from about the middle of the eleventh to that of the twelfth century, is marked by three great events in Italian history; the struggle between the empire and the papacy for ecclesiastical investitures, the establishment of the Norman kingdom in Naples, and the formation of distinct and nearly independent republics among the cities of Lombardy. The first of these will find a more appropriate place in a subsequent chapter, where I shall trace the progress of ecclesiastical power. But it produced a long and almost incessant state of disturbance in Italy; and should be mentioned at present, as one of the main causes which excited in that country a systematic opposition to the imperial authority.

Greek provinces of southern Italy.

The southern provinces of Italy, in the beginning of the eleventh century, were chiefly subject to the Greek empire, which had latterly recovered part of its losses, and exhibited some ambition and enterprize, though without any intrinsic vigour. They were governed by a lieutenant,

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styled Catapan,* who resided at Bari in Apulia. On the Mediterranean coast, three duchies or rather republics, of Naples, Gaeta, and Amalfi, had for several ages preserved their connexion with the Greek empire, and acknowledged its nominal sovereignty. The Lombard principalities of Benevento, Salerno, and Capua had much declined from their ancient splendour. The Greeks were, however, not likely to attempt any further conquests; the court of Constantinople had relapsed into its usual indolence; nor had they much right to boast of successes, rather due to the Saracen auxiliaries, whom they hired from Sicily. No momentous revolution apparently threatened the south of Italy, and least of all could it be anticipated from what quarter the storm was about to gather.

Settlement of the Normans at Aversa.

The followers of Rollo, who rested from plunder and piracy in the quiet possession of Normandy, became devout professors of the Christian faith, and particularly addicted to the custom of pilgrimage, which gratified their curiosity and spirit of adventure. In small bodies, well armed, on account of the lawless character of the countries through which they passed, the Norman pilgrims visited the shrines of Italy and even the Holy Land. Some of these, very early in the eleventh century, were engaged by a Lombard prince of Salerno against the Saracens, who had invaded his territory; and through that superiority of valour, and per-

* Catapanus, from *κατὰ πᾶν*, one employed in general administration of affairs.

haps of corporal strength, which this singular people seem to have possessed above all other Europeans, they made surprizing havoc among the enemy.* This exploit led to fresh engagements, and these engagements drew new adventurers from Normandy; they founded the little city of Aversa near Capua, and were employed by the Greeks against the Saracens of Sicily. But, though performing splendid services in this war, they were ill repaid by their ungrateful employers; and being by no means of a temper to bear with injury, they revenged themselves by a sudden invasion of Apulia. This province was speedily subdued, and divided among twelve Norman counts; but soon afterwards Robert Guiscard, one 1042
of twelve brothers, many of whom were renowned in these Italian wars, acquired the sovereignty; Conquests of Robert Guiscard.
and adding Calabria to his conquests, put an end to the long dominion of the Eastern emperors in 1057
Italy.† He reduced the principalities of Salerno and Benevento, in the latter instance sharing the spoil with the pope, who took the city to himself, while Robert retained the territory. His conquests in Greece, which he invaded with the magnificent design of overthrowing the Eastern empire, were at least equally splendid, though less 1061

* Giannone, t. ii. p. 7. [edit. 1753.] I should observe, that St. Marc, a more critical writer in examination of facts than Giannone, treats this first adventure of the Normans as unauthenticated. Abrégé Chronologique, p. 990.

† The final blow was given to the Greek domination over Italy by the capture of Bari in 1071, after a siege of four years. It had for some time been confined to this single city. Muratori, St. Marc.

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durable. Roger, his younger brother, undertook meanwhile the romantic enterprize, as it appeared, of conquering the island of Sicily, with a small body of Norman volunteers. But the Saracens were broken into petty states, and discouraged by the bad success of their brethren in Spain and Sardinia. After many years of war, Roger became sole master of Sicily, and took the title of Count. The son of this prince, upon the extinction of Robert Guiscard's posterity, united the two Norman sovereignties, and subjugating the free republics of Naples and Amalfi, and the prin-
1127 cipality of Capua, established a boundary which has hardly been changed since his time.*

Papal investitures of Naples.

The first successes of these Norman leaders were viewed unfavourably by the popes. Leo IX. marched in person against Robert Guiscard with an army of German mercenaries, but was beaten and made prisoner in this unwise enterprize, the scandal of which nothing but good fortune could have lightened. He fell, however, into the hands of a devout people, who implored his absolution for the crime of defending themselves; and whether through gratitude, or as the price of his liberation, invested them with their recent conquests in Apulia, as fiefs of the Holy See. This investiture was repeated and enlarged, as the popes, especially in their contention with Henry

* M. Sismondi has excelled himself in describing the conquest of Amalfi and Naples by Roger Guiscard; (t. i. c. 4.) warming his imagination with visions of liberty and virtue in those obscure republics, which no real history survives to dispel.

IV. and Henry V. found the advantage of using the Normans as faithful auxiliaries. Finally, Innocent II., in 1139, conferred upon Roger the title of king of Sicily. It is difficult to understand by what pretence these countries could be claimed by the see of Rome in sovereignty, unless by virtue of the pretended donation of Constantine, or that of Louis the Debonair, which is hardly less suspicious;* and least of all how Innocent II. could surrender the liberties of the city of Naples, whether that were considered as an independent republic, or as a portion of the Greek empire. But the Normans, who had no title but their swords, were naturally glad to give an appearance of legitimacy to their conquest; and the kingdom of Naples, even in the hands of the most powerful princes in Europe, never ceased to pay a feudal acknowledgement to the chair of St. Peter.

Progress of the Lombard cities.

The revolutions which time brought forth on the opposite side of Italy were still more interesting. Under the Lombard and French princes, every city with its adjacent district was subject to the government and jurisdiction of a count, who was himself subordinate to the duke or marquis of the province. From these counties it was the practice of the first German emperors to dismember particular towns or tracts of country, granting

* Muratori presumes to suppose, that the interpolated, if not spurious, grants of Louis the Debonair, Otho I. and Henry II. to the See of Rome were promulgated about the time of the first concessions to the Normans, in order to give the popes a colourable pretext to dispose of the southern provinces of Italy. A.D. 1059.

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them upon a feudal tenure to rural lords, by many of whom also the same title was assumed. Thus by degrees the authority of the original officers was confined almost to the walls of their own cities; and in many cases the bishop obtained a grant of the temporal government, and exercised the functions which had belonged to the count.*

It is impossible to ascertain the time at which the cities of Lombardy began to assume a republican form of government, or to trace with precision the gradations of their progress. The last historian of Italy asserts, that Otho the First erected them into municipal communities, and permitted the election of their magistrates; but of this he produces no evidence; and Muratori, from whose authority it is rash to depart without strong reasons, is not only silent about any charters, but discovers no express unequivocal testimonies of a popular government for the whole eleventh century.† The first appearance of the citizens acting for themselves, is in a tumult at Milan in 991, when the archbishop was expelled from the city.‡ But this was a transitory ebullition, and we must descend lower for more specific proofs. It is possible that the disputed succession of Ardoin and Henry, at the beginning of the eleventh age, and the kind of interregnum which then took place, gave the inhabitants an oppor-

* Muratori, Antiquit. Italiæ, Dissert. 8. Annali d'Italia, A.D. 989. Antichita Estensi, p. 26.

† Sismondi, t. i. p. 97. 384. Muratori, Dissert. 49.

‡ Muratori, Annali d'Italia.

tunity of chusing magistrates, and of sharing in public deliberations. A similar relaxation indeed of government in France had exposed the people to greater servitude, and established a feudal aristocracy. But the feudal tenures seem not to have produced in Italy that systematic and regular subordination which existed in France during the same period; nor were the mutual duties of the relation between lord and vassal so well understood or observed. Hence we find not only disputes, but actual civil war between the lesser gentry or vavassors, and the higher nobility, their immediate superiors. These differences were adjusted by Conrad the Salic, who published a remarkable edict in 1037, by which the feudal law of Italy was reduced to more certainty.*

From this disunion among the members of the feudal confederacy, it was more easy for the citizens to render themselves secure against its dominion. The cities too of Lombardy were far more populous and better defended than those of France; they had learned to stand sieges in the Hungarian invasions of the tenth century, and had acquired the right of protecting themselves by strong fortifications. Those which had been placed under the temporal government of their bishops had peculiar advantages in struggling for emancipation.† This circumstance in the state of Lombardy I consider as highly important towards

* Muratori, Annali d'Italia. St. Marc.

† The bishops seem to have become counts, or temporal governors, of their sees, about the end of the tenth, or before the middle of

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explaining the subsequent revolution. Notwithstanding several exceptions, a churchman was less likely to be bold and active in command than a soldier; and the sort of election which was always necessary, and sometimes more than nominal, on a vacancy of the see, kept up among the citizens a notion, that the authority of their bishop and chief magistrate emanated in some degree from themselves. In many instances, especially in the church of Milan, the earliest perhaps, and certainly the most famous of Lombard republics, there occurred a disputed election; two, or even three, competitors claimed the archiepiscopal functions, and were compelled, in the absence of the emperors, to obtain the exercise of them by means of their own faction among the citizens.*

the eleventh century. Muratori, Diss. 8. Denina, l. ix. c. 11. St. Marc. A.D. 1041. 1047. 1070. In Arnulf's History of Milan, written before the close of the latter age, we have a contemporary evidence. And from the perusal of that work I should infer, that the archbishop was, in the middle of the 11th century, the chief magistrate of the city. But, at the same time, it appears highly probable, that an assembly of the citizens, or at least a part of the citizens, partook in the administration of public affairs. Muratori, Scriptores Rerum Italicarum, t. iv. p. 16. 22, 23, and particularly the last. In most cities to the eastward of the Tesino, the bishops lost their temporal authority in the twelfth century, though the archbishop of Milan had no small prerogatives, while that city was governed as a republic. But in Piedmont, they continued longer in the enjoyment of power. Vercelli and even Turin were almost subject to their respective prelates till the thirteenth century. For this reason among others, the Piedmontese cities are hardly to be reckoned among the republics of Lombardy. Denina, Istoria dell' Italia Occidentale, t. i. p. 191.

* Muratori, A. D. 1045. Sometimes the inhabitants of a city refused to acknowledge a bishop named by the emperor, as happened at Pavia and Asti about 1057. Arnulf; p. 22. This was, in other words, setting up themselves as republics. But the most remarkable instance of this kind occurred in 1070, when the Milanese absolutely rejected Godfrey, appointed by Henry IV. and after a resistance of several years, obliged the emperor to fix upon another person.

These were the general causes, which, operating at various times during the eleventh century, seem gradually to have produced a republican form of government in the Italian cities. But this part of history is very obscure. The archives of all cities before the reign of Frederic Barbarossa have perished. For many years, there is a great deficiency of contemporary Lombard historians, and those of a later age, who endeavoured to search into the antiquities of their country, have found only some barren and insulated events to record. We perceive, however, throughout the eleventh century, that the cities were continually in warfare with each other. This indeed was according to the manners of that age, and no inference can absolutely be drawn from it as to their internal freedom. But it is observable, that their chronicles speak, in recording these transactions, of the people, and not of their leaders, which is the true republican tone of history. Thus, in the Annals of Pisa, we read, under the years 1002 and 1004, of victories gained by the Pisans over the people of Lucca; in 1006, that the Pisans and Genoese conquered Sardinia.* These annals

The city had been previously involved in long and violent tumults, which, though rather belonging to ecclesiastical than civil history, as they arose out of the endeavours made to reform the conduct and enforce the celibacy of the clergy, had a considerable tendency to diminish the archbishop's authority, and to give a republican character to the inhabitants. These proceedings are told at great length by St. Marc, t. iii. A.D. 1056—1077. Arnulf and Landulf are the original sources.

* Murat. Diss. 45. Arnulfus, the historian of Milan, makes no mention of any temporal counts, which seems to be a proof that there were none in any authority. He speaks always of Mediolanenses, Papienses, Ravenates, &c.

indeed are not by a contemporary writer, nor perhaps of much authority. But we have an original account of a war that broke out in 1057, between Pavia and Milan, in which the citizens are said to have raised armies, made alliances, hired foreign troops, and in every respect acted like independent states.* There was, in fact, no power left in the empire to controul them. The two Henrys IV. and V. were so much embarrassed during the quarrel concerning investitures, and the continual troubles of Germany, that they were less likely to interfere with the rising freedom of the Italian cities, than to purchase their assistance by large concessions. Henry IV. granted a charter to Pisa, in 1081, full of the most important privileges, promising even not to name any marquis of Tuscany without the people's consent;† and it is possible, that although the instruments have perished, other places might obtain similar advantages. However this may be, it is certain that before the death of Henry V., in 1125, almost all the cities of Lombardy, and many among those of Tuscany, were accustomed to elect their own magistrates, and to act as independent communities in waging war and in domestic government.‡

This history was written about 1085, but relates to the earlier part of that century. That of Landulfus corroborates this supposition, which indeed is capable of proof as to Milan and several other cities in which the temporal government had been legally vested in the bishops.

* Murat. Diss. 45. Arnulf. Hist. Mediolan. p. 22.

† Murat. Dissert. 45.

‡ Murat. Annali d'Ital. A. D. 1107.

Their acquisitions of territory.

The territory subjected originally to the count or bishop of these cities had been reduced, as I mentioned above, by numerous concessions to the rural nobility. But the new republics, deeming themselves entitled to all which their former governors had once possessed, began to attack their nearest neighbours, and to recover the sovereignty of all their ancient territory. They besieged the castles of the rural counts, and successively reduced them into subjection. They suppressed some minor communities, which had been formed in imitation of themselves by little towns belonging to their district. Sometimes they purchased feudal superiorities or territorial jurisdictions, and, according to a policy not unusual with the stronger party, converted the rights of property into those of government.* Hence, at the middle of the twelfth century, we are assured by a contemporary writer, that hardly any nobleman could be found except the marquis of Montferrat, who had not submitted to some city.† We may except also, I should presume, the families of Este and Malaspina, as well as that of Savoy. Muratori produces many charters of mutual compact between the nobles and the neighbouring cities; whereof one invariable article is, that the former should reside within the walls a certain number of

* Il dominio utile delle città e de' villaggi era talvolta diviso fra due o più padroni, ossia che s' assegnassero a ciascuno diversi quartieri, o si dividessero i proventi della gabelle, ovvero che l' uno signore godesse d' una specie della giurisdizione, e l'altro d' un' altra. Denina, l. xii. c. 3. This produced a vast intricacy of titles, which was of course advantageous to those who wanted a pretext for robbing their neighbours.

† Otho Frisingens. l. ii. c. 13.

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months in the year.* The rural nobility, thus deprived of the independence which had endeared their castles, imbibed a new ambition of directing the municipal government of the cities, which, during the first period of the republics, was chiefly in the hands of the superior families. It was the sagacious policy of the Lombards to invite settlers by throwing open to them the privileges of citizenship, and sometimes they even bestowed them by compulsion. Sometimes a city, imitating the wisdom of ancient Rome, granted these privileges to all the inhabitants of another.† Thus the principal cities, and especially Milan, reached before the middle of the twelfth century a degree of population very far beyond that of the capitals of the great kingdoms. Within their strong walls and deep trenches, and in the midst of their well-peopled streets, the industrious dwelt secure from the licence of armed pillagers and the oppression of feudal tyrants. Artizans, whom the military landholders contemned, acquired and deserved the right of bearing arms for their own and the public defence.‡ Their occupations became liberal, because they were the foundation of their political franchises; the citizens were classed in companies according to their respective crafts; each of which

* Murat. Diss. 49.

† Ibid.

‡ Otho Frisingensis ap. Murat. Scr. Rer. Ital. t. vi. p. 708. Ut etiam ad comprimendos vicinos materiâ non careant, inferioris ordinis juvenes, vel quoslibet contemptibilium etiam mechanicarum artium opifices, quos cæteræ gentes ab honestioribus et liberioribus studiis tanquam pestem propellunt, ad militiæ cingulum, vel dignitatum gradus assumere non dedignantur. Ex quo factum est, ut cæteris orbis civitatibus, divitiis et potentiâ præemineant.

had its tribune or standard-bearer (gonfalonier), at whose command, when any tumult arose or enemy threatened, they rushed in arms to muster in the market-place.

Their mutual animosities.

But, unhappily, we cannot extend the sympathy, which institutions so full of liberty create, to the national conduct of these little republics. Their love of freedom was alloyed by that restless spirit, from which a democracy is seldom exempt, of tyrannizing over weaker neighbours. They played over again the tragedy of ancient Greece, with all its circumstances of inveterate hatred, unjust ambition, and atrocious retaliation, though with less consummate actors upon the scene. Among all the Lombard cities, Milan was the most conspicuous, as well for power and population, as for the abuse of those resources by arbitrary and ambitious conduct. Thus in 1111, they razed the town of Lodi to the ground, distributing the inhabitants among six villages, and subjecting them to an unrelenting despotism.* Thus in 1118, they commenced a war of ten years duration with the little city of Como; but the surprizing perseverance of its inhabitants procured for them better terms of capitulation, though they lost their ori-

* The animosity between Milan and Lodi was of very old standing. It originated, according to Arnulf, in the resistance made by the inhabitants of the latter city to an attempt made by Archbishop Eribert to force a bishop of his own nomination upon them. The bloodshed, plunder, and conflagrations which had ensued, would, he says, fill a volume, if they were related at length. Scriptores Rerum Italic. t. iv. p. 16. And this is the testimony of a writer who did not live beyond 1085. Seventy years more either of hostility or servitude elapsed, before Lodi was permitted to respire.

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ginal independence. The Cremonese treated so harshly the town of Crema, that it revolted from them, and put itself under the protection of Milan. Cities of more equal forces carried on interminable hostilities by wasting each other's territory, destroying the harvests, and burning the villages.

Sovereignty of the emperors.

The sovereignty of the emperors, meanwhile, though not very effective, was in theory always admitted. Their name was used in public acts, and appeared upon the coin. When they came into Italy, they had certain customary supplies of provisions called fodrum regale, at the expense of the city where they resided; during their presence, all inferior magistracies were suspended, and the right of jurisdiction devolved upon them alone. But such was the jealousy of the Lombards, that they built the royal palaces without their gates; a precaution to which the emperors were compelled to submit. This was at a very early time a subject of contention between the inhabitants of Pavia and Conrad II., whose palace, seated in the heart of the city, they had demolished in a sedition, and were unwilling to rebuild in that situation.*

Frederic Barbarossa.

Such was the condition of Italy when Frederic Barbarossa, duke of Swabia, and nephew of the last emperor, Conrad III., ascended the throne of Germany. His accession forms the commencement of a new period, the duration of which is about one hundred years, and which is terminated

* Otho Frisingensis, p. 710. Muratori, A.D. 1027.

by the death of Conrad IV., the last emperor of the house of Swabia. It is characterized, like the former, by three distinguishing features in Italian history; the victorious struggle of the Lombard and other cities for independence, the final establishment of a temporal sovereignty over the middle provinces by the popes, and the union of the kingdom of Naples to the dominions of the house of Swabia.

In Frederic Barbarossa the Italians found a very different sovereign from the two last emperors, Lothaire and Conrad III., who had seldom appeared in Italy, and with forces quite inadequate to controul such insubordinate subjects. The distinguished valour and ability of this prince rendered a severe and arbitrary temper and a haughty conceit of his imperial rights more formidable. He believed, or professed to believe, the magnificent absurdity, that, as successor of Augustus, he inherited the kingdoms of the world. In the same right, he more powerfully, if not more rationally, laid claim to the entire prerogatives of the Roman emperors over their own subjects; and in this the professors of the civil law, which was now diligently studied, lent him their aid with the utmost servility. To such a disposition the self-government of the Lombard cities appeared mere rebellion. Milan, especially, the most renowned of them all, drew down upon herself his inveterate resentment. He found, unfortunately, too good a pretence in her behaviour towards Lodi. Two natives of that ruined city threw themselves at the em-

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peror's feet, imploring him, as the ultimate source of justice, to redress the wrongs of their country. It is a striking proof of the terror inspired by Milan, that the consuls of Lodi disavowed the complaints of their countrymen, and the inhabitants trembled at the danger of provoking a summary vengeance, against which the imperial arms seemed no protection.* The Milanese, however, abstained from attacking the people of Lodi, though they treated with contempt the emperor's order to leave them at liberty. Frederic, meanwhile, came into Italy, and held a diet at Roncaglia, where complaints poured in from many quarters against the Milanese. Pavia and Cremona, their ancient enemies, were impatient to renew hostilities under the imperial auspices. Brescia, Tortona, and Crema were allies, or rather dependants, of Milan. Frederic soon took occasion to attack the latter confederacy. Tortona was compelled to surrender and levelled to the ground. But a feudal army was soon dissolved; the emperor had much to demand his attention at Rome, where he was on ill terms with Adrian IV.; and when the imperial troops were withdrawn from Lombardy, the Milanese rebuilt Tortona, and expelled the citizens of Lodi from their dwellings. Frederic assembled a fresh army, to which almost every city of Lombardy, willingly, or by

* See an interesting account of these circumstances in the narrative of Otho Morena, a citizen of Lodi. Script. Rer. Ital. t. vi. p. 966. M. Sismondi, who reproaches Morena for partiality towards Frederic in the Milanese war, should have remembered the provocations of Lodi. Hist. des Republ. Ital. t. ii. p. 102.

force, contributed its militia. It is said to have exceeded a hundred thousand men. The Milanese shut themselves up within their walls; and perhaps might have defied the imperial forces, if their immense population, which gave them confidence in arms, had not exposed them to a different enemy. Milan was obliged by hunger to capitulate, upon conditions not very severe, if a vanquished people could ever safely rely upon the convention that testifies their submission.

Diet of Roncaglia.

Frederic, after the surrender of Milan, held a diet at Roncaglia, where the effect of his victories was fatally perceived. The bishops, the higher nobility, the lawyers, vied with one another in exalting his prerogatives. He defined the regalian rights, as they were called, in such a manner as to exclude the cities and private proprietors from coining money, and from tolls or territorial dues, which they had for many years possessed. These, however, he permitted them to retain for a pecuniary stipulation. A more important innovation was the appointment of magistrates, with the title of Podestà, to administer justice, concurrently with the consuls; but he soon proceeded to abolish the latter office in many cities, and to throw the whole government into the hands of his own magistrates. He prohibited the cities from levying war against each other. It may be presumed, that he shewed no favour to Milan. The capitulation was set at nought in its most express provisions; a podestà was sent to supersede the consuls, and part of the territory taken away. Whatever might be the

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risk of resistance, and the Milanese had experience enough not to undervalue it, they were determined rather to see their liberties at once overthrown, than gradually destroyed by a faithless tyrant. They availed themselves of the absence of his army to renew the war. Its issue was more calamitous than that of the last. Almost all Lombardy lay patient under subjection. The small town of Crema, always the faithful ally of Milan, stood a memorable siege against the imperial army; but the inhabitants were ultimately compelled to capitulate for their lives, and the vindictive Cremonese razed their dwellings to the ground.*

Capture and destruction of Milan.

But all smaller calamities were forgotten, when the great city of Milan, worn out by famine rather than subdued by force, was reduced to surrender at discretion. Lombardy stood in anxious suspense to know the determination of Frederic respecting this ancient metropolis, the seat of the early Christian emperors, and second only to Rome in the hierarchy of the Latin church. A delay of three weeks excited fallacious hopes; but at the end of that time, an order was given to the Milanese to evacuate their habitations. The deserted streets were instantly occupied by the imperial army; the people of Pavia and Cremona, of Lodi and Como, were commissioned to revenge

* The siege of Crema is told at great length by Otto Morena; it is interesting, not only as a display of extraordinary, though unsuccessful, perseverance and intrepidity, but as the most detailed account of the methods used in the attack and defence of fortified places, before the introduction of artillery. Scrip. Rer. Ital. t. vi. p. 1032—1052.

themselves on the respective quarters of the city assigned to them; and in a few days, the pillaged churches stood alone amidst the ruins of what had been Milan.

There was now little left of that freedom to which Lombardy had aspired: it was gone like a pleasant dream, and she awoke to the fears and miseries of servitude. Frederic obeyed the dictates of his vindictive temper, and of the policy usual among statesmen. He abrogated the consular regimen in some even of the cities which had supported him, and established his podestà in their place. This magistrate was always a stranger, frequently not even an Italian; and he came to his office with all those prejudices against the people he was to govern which cut off every hope of justice and humanity. The citizens of Lombardy, especially the Milanese, who had been dispersed in the villages adjoining their ruined capital, were unable to meet the perpetual demands of tribute. In some parts, it is said, two thirds of the produce of their lands, the only wealth that remained, were extorted from them by the imperial officers. It was in vain that they prostrated themselves at the feet of Frederic. He gave at the best only vague promises of redress; they were in his eyes rebels, his delegates had acted as faithful officers, whom, even if they had gone a little beyond his intentions, he could not be expected to punish. 1162

But there still remained, at the heart of Lombardy, the strong principle of national liberty, im-

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perishable among the perishing armies of her patriots, inconsumable in the conflagration of her cities.* Those whom private animosities had led to assist the German conqueror, blushed at the degradation of their country, and at the share they had taken in it. A league was secretly formed, in which Cremona, one of the chief cities on the imperial side, took a prominent part. Those beyond the Adige, hitherto not much engaged in the disputes of central Lombardy, had already formed a separate confederacy, to secure themselves from encroachments, which appeared the more unjust, as they had never borne arms against the emperor. Their first successes corresponded to the justice of their cause; Frederic was repulsed from the territory of Verona, a fortunate augury for the rest of Lombardy. These two clusters of cities, on the east and west of the Adige, now united themselves into the famous Lombard League, the terms of which were settled in a general diet. Their alliance was to last twenty years; during which they pledged themselves to mutual assistance against any one who should exact more from them than they had been used to perform from the time of Henry, to the first coming of Frederic into Italy; implying in this, the recovery of their elective magistracies, their rights of war and peace, and those lucrative privileges, which, under the name of regalian,

League of Lombardy against Frederic.

1167

1164

* Quæ neque Dardaniis campis potuere perire,
Nec cum capta capi, nec cum combusta cremari.

Ennius.

had been wrested from them in the diet of Roncaglia.*

This union of the Lombard cities was formed at a very favourable juncture. Frederic had almost ever since his accession been engaged in open hostility with the see of Rome, and was pursuing the fruitless policy of Henry IV., who had endeavoured to substitute an antipope of his own faction for the legitimate pontiff. In the prosecution of this scheme, he had besieged Rome with a great army, which the citizens resisting longer than he expected, fell a prey to the autumnal pestilence that visits the neighbourhood of that capital. The flower of German nobility was cut off by this calamity, and the emperor recrossed the Alps, entirely unable for the present to withstand the Lombard confederacy. Their first overt act of insurrection was the rebuilding of Milan; the confederate troops all joined in this undertaking; and the Milanese, still numerous, though dispersed and persecuted, revived as a powerful republic. Lodi was compelled to enter into the league; Pavia alone continued on the imperial

* For the nature and conditions of the Lombard league, besides the usual authorities, see Muratori's 48th dissertation. The words, a tempore Henrici regis usque ad introitum imperatoris Frederici, leave it ambiguous, which of the Henries was intended. Muratori thinks it was Henry IV., because the cities then began to be independent. It seems however natural, when a king is mentioned without any numerical designation, to interpret it of the last bearing that name; as we say King William, for William the Third. And certainly the liberties of Lombardy were more perfect under Henry V. than his father: besides which, the one reign might still be remembered, and the other rested in tradition. The question however is of little moment.

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side. As a check to Pavia, and to the marquis of Montferrat, the most potent of the independent nobility, the Lombards planned the erection of a new city, between the confines of these two enemies, in a rich plain to the south of the Po, and bestowed upon it, in compliment to the pope, Alexander III., the name of Alessandria. Though, from its hasty construction, Alessandria was, even in that age, deemed rude in appearance, it rapidly became a thriving and populous city.* The intrinsic energy and resources of Lombardy were now made manifest. Frederic, who had triumphed by their disunion, was unequal to contend against their league. After several years of indecisive war, the emperor invaded the Milanese territory; but the confederates gave him battle, and gained a complete victory at Legnano. Frederic escaped alone and disguised from the field, with little hope of raising a fresh army, though still reluctant from shame to acquiesce in the freedom of Lombardy. He was at length persuaded, through the mediation of the republic of Venice, to consent to a truce of six years, the provisional terms of which were all favourable to the league. It was weakened, however, by the defection of some of its own members; Cremona, which had never cordially united with her ancient

Battle of Legnano. 1176

* Alessandria was sirnamed, in derision, della paglia: from the thatch with which the houses were covered. Frederic was very desirous to change its name to Cæsarea, as it is actually called in the peace of Constance, being at that time on the imperial side. But it soon recovered its former appellation.

enemies, made separate conditions with Frederic, and suffered herself to be named among the cities on the imperial side in the armistice. Tortona and even Alessandria followed the same course during the six years of its duration; a fatal testimony of unsubdued animosities, and omen of the calamities of Italy. At the expiration of the truce, Frederic's anxiety to secure the crown for his son overcame his pride, and the famous peace of Constance established the Lombard republics in real independence.

Peace of Constance. 1183

By the treaty of Constance, the cities were maintained in the enjoyment of all the regalian rights, whether within their walls or in their district, which they could claim by usage. Those of levying war, of erecting fortifications, and of administering civil and criminal justice, were specially mentioned. The nomination of their consuls, or other magistrates, was left absolutely to the citizens; but they were to receive the investiture of their office from an imperial legate. The customary tributes of provision during the emperor's residence in Italy were preserved; and he was authorized to appoint in every city a judge of appeal in civil causes. The Lombard league was confirmed, and the cities were permitted to renew it at their own discretion; but they were to take every ten years an oath of fidelity to the emperor. This just compact preserved, along with every security for the liberties and welfare of the cities, as much of the imperial prerogatives,

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as could be exercised by a foreign sovereign, consistently with the people's happiness.*

The successful insurrection of Lombardy is a memorable refutation of that system of policy to which its advocates give the appellation of vigorous, and which they perpetually hold forth as the only means, through which a disaffected people are to be restrained. By a certain class of statesmen, and by all men of harsh and violent disposition, measures of conciliation, adherence to the spirit of treaties, regard to ancient privileges, or to those rules of moral justice which are paramount to all positive right, are always treated with derision. Terror is their only specific, and the physical inability to rebel their only security for allegiance. But if the razing of cities, the abrogation of privileges, the impoverishment and oppression of a nation could assure its constant submission, Frederic Barbarossa would never have seen the militia of Lombardy arrayed against him at Legnano. Whatever may be the pressure upon a conquered people, there will come a moment of their recoil. Nor is it material to alledge, in answer to the present instance, that the accidental destruction of Frederic's army by disease enabled the cities of Lombardy to succeed in their resistance. The fact may well be disputed; since Lombardy, when united, appears to have been more than equal to a contest with any German.

* Muratori, Antiquitates Italiæ, Diss. 50.

force that could have been brought against her; but, even if we admit the effect of this circumstance, it only exhibits the precariousness of a policy, which collateral events are always liable to disturb. Providence reserves to itself various means, by which the bonds of the oppressor may be broken; and it is not for human sagacity to anticipate, whether the army of a conqueror shall moulder in the unwholesome marshes of Rome, or stiffen with frost in a Russian winter.

The peace of Constance presented a noble opportunity to the Lombards of establishing a permanent federal union of small republics; a form of government congenial from the earliest ages to Italy, and that, perhaps, under which she is again destined one day to flourish. They were entitled by the provisions of that treaty to preserve their league, the basis of a more perfect confederacy, which the course of events would have emancipated from every kind of subjection to Germany.* But dark long cherished hatreds, and that implacable vindictiveness, which, at least in former ages, distinguished the private manners of Italy, deformed her national character, which can only be the aggregate of individual passions. For re-

* Though there was no permanent diet of the Lombard league, the consuls and podestas of the respective cities composing it occasionally met in congress, to deliberate upon measures of general safety. Thus assembled, they were called Rectores Societatis Lombardiæ. It is evident, that if Lombardy had continued in any degree to preserve the spirit of union, this congress might readily have become a permanent body, like the Helvetic diet, with as extensive powers as are necessary in a federal constitution. Muratori, Antichità Italiane, t. iii. p. 126. Dissert. 50. Sismondi, t. ii. p. 189.

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venge she threw away the pearl of great price, and sacrificed even the recollection of that liberty, which had stalked like a majestic spirit among the ruins of Milan.* It passed away, that high disdain of absolute power, that steadiness and self-devotion, which raised the half-civilized Lombards of the twelfth century to the level of those ancient republics, from whose history our first notions of freedom and virtue are derived. The victim by turns of selfish and sanguinary factions, of petty tyrants, and of foreign invaders, Italy has fallen like a star from its place in heaven; she has seen her harvests trodden down by the horses of the stranger, and the blood of her children wasted in quarrels not their own; *Conquering or conquered,* in the indignant language of her poet, *still alike a slave;*† a long retribution for the tyranny of Rome.

Affairs of Sicily.

Frederic did not attempt to molest the cities of Lombardy in the enjoyment of those privileges conceded by the treaty of Constance. His ambition was diverted to a new scheme for aggrandizing the house of Swabia, by the marriage of his eldest son Henry with Constance, the aunt and heiress of William II., king of Sicily. That kingdom, which the first monarch, Roger, had elevated to a high pitch of renown and power, fell into decay through the misconduct of his son William,

* Anzi girar la libertà mirai,
E baciar lieta ogni ruina, e dire,
Ruine sì, ma servitù non mai.
Gaetana Passerini (ossia piuttosto Gievan Battista Pastorini) in Mathias, Componimenti Lirici —vol. iii. p. 331.

† Per servir sempre, o vincitrice o vinta. Filicaja.

sirnamed the Bad, and did not recover much of its lustre under the second William, though styled the Good. His death without issue was apparently no remote event, and Constance was the sole legitimate survivor of the royal family. It is a curious circumstance, that no hereditary kingdom appears absolutely to have excluded females from its throne, except that which, from its magnitude, was of all the most secure from falling into the condition of a province. The Sicilians felt too late the defect of their constitution, which permitted an independent people to be transferred, as the dowry of a woman, to a foreign prince, by whose ministers they might justly expect to be insulted and oppressed. Henry, whose marriage with Constance took place in 1186, and who succeeded in her right to the throne of Sicily three years afterwards, was exasperated by a courageous, but unsuccessful effort of the Norman barons to preserve the crown for an illegitimate branch of the royal family; and his reign is disgraced by a series of atrocious cruelties. The power of the house of Swabia was now at its zenith on each side of the Alps; Henry received the Imperial crown, the year after his father's death in the third crusade, and even prevailed upon the princes of Germany to elect his infant son Frederic as his successor. But his own premature decease clouded the prospects of his family: Constance survived him but a year; and a child of four years old was left with the inheritance of a kingdom, which his father's severity

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had rendered disaffected, and which the leaders of German mercenaries in his service desolated and disputed.

Innocent III.

During the minority of Frederic II. from 1198 to 1216, the papal chair was filled by Innocent III.; a name second only, and hardly second, to that of Gregory VII. Young, noble, and intrepid, he united with the accustomed spirit of ecclesiastical usurpation which no one had ever carried to so high a point, the more worldly ambition of consolidating a separate principality for the Holy See in the centre of Italy. The real or spurious donations of Constantine, Pepin, Charlemagne, and Louis, had given rise to a perpetual claim, on the part of the popes, to very extensive dominions: but little of this had been effectuated, and in Rome itself, they were thwarted by the prefect, an officer who swore fidelity to the emperor, and by the insubordinate spirit of the people. In the very neighbourhood, the small cities owned no subjection to the capital, and were probably as much self-governed as those of Lombardy. One is transported back to the earliest times of the republic, in reading of the desperate wars between Rome and Tibur or Tusculum; neither of which was subjugated till the latter part of the twelfth century. At a further distance were the duchy of Spoleto, the march of Ancona, and what had been the exarchate of Ravenna, to all of which the popes had more or less grounded pretensions. Early in the last mentioned age, the famous countess Matilda, to whose zealous protection

Bequest of the countess Matilda.

Gregory VII. had been eminently indebted during his long dispute with the emperor, granted the reversion of all her possessions to the Holy See, first in the life-time of Gregory, and again under the Pontificate of Paschal III. These were very extensive, and held by different titles. Of her vast imperial fiefs, Mantua, Modena, and Tuscany, she certainly could not dispose. The duchy of Spoleto and march of Ancona were supposed to rest upon a different footing. I confess myself not distinctly to comprehend the nature of this part of her succession. These had been formerly among the great fiefs of the kingdom of Italy. But if I understand it rightly, they had tacitly ceased to be subject to the emperors, some years before they were seized by Godfrey of Lorraine, father-in-law and step-father of Matilda. To his son, her husband, she succeeded in the possession of those countries. They are commonly considered as her alodial or patrimonial property; yet it is not easy to see how, being herself a subject of the empire, she could transfer even her alodial estates from its sovereignty. Nor, on the other hand, can it, apparently, be maintained, that she was lawful sovereign of countries, which had not long since been imperial fiefs, and the suzerainty over which had never been renounced. The original title of the Holy See, therefore, does not seem incontestable, even as to this part of Matilda's donation. But I state with hesitation a difficulty, to which the authors I have consulted

do not advert.* It is certain, however, that the emperors kept possession of the whole during the twelfth century; and treated both Spoleto and Ancona as parts of the empire, notwithstanding continual remonstrances from the Roman pontiffs. Frederic Barbarossa, at the negociations of Venice in 1177, promised to restore the patrimony of Matilda in fifteen years; but at the close of that period, Henry VI. was not disposed to execute this arrangement, and granted the county in fief to some of his German followers. Upon his death, the circumstances were favourable to Innocent III. The infant king of Sicily had been intrusted by Constance to his guardianship. A double election of Philip, brother of Henry VI., and of Otho, duke of Brunswic, engaged the princes of Germany, who had entirely overlooked the claims of young Frederic, in a doubtful civil war. Neither party was in a condition to enter Italy; and the imperial dignity was vacant for several years, till, the death of Philip removing one competitor, Otho IV., whom the pope had constantly favoured, was crowned emperor. During this interval, the Italians had no superior; and Innocent availed himself of it to maintain the

* It is almost hopeless to look for explicit information upon the rights and pretensions of the Roman see in Italian writers even of the eighteenth century. Muratori, the most learned, and upon the whole the fairest of them all, moves cautiously over this ground; except when the claims of Rome happen to clash with those of the house of Este. But I have not been able to satisfy myself by the perusal of some dry and tedious dissertations in St. Marc, (Abrégé Chronologique de l'Hist. de l'Italie, t. iv.) who, with learning scarcely inferior to that of Muratori, possessed more opportunity and inclination to speak out.

pretensions of the see. These he backed by the production of rather a questionable document, the will of Henry VI., said to have been found among the baggage of Marquard, one of the German soldiers, who had been invested with fiefs by the late emperor. The cities of what we now call the ecclesiastical state had in the twelfth century their own municipal government like those of Lombardy; but they were far less able to assert a complete independence. They gladly, therefore, put themselves under the protection of the Holy See, which held out some prospect of securing them from Marquard, and other rapacious partizans, without disturbing their internal regulations. Thus the duchy of Spoleto and march of Ancona submitted to Innocent III.; but he was not strong enough to keep constant possession of such extensive territories, and some years afterwards adopted the prudent course of granting Ancona in fief to the marquis of Este. He did not, as may be supposed, neglect his authority at home; the prefect of Rome was now compelled to swear allegiance to the pope, which put an end to the regular imperial supremacy over that city; and the privileges of the citizens were abridged. This is the proper æra of that temporal sovereignty, which the bishops of Rome possess over their own city, though still prevented by various causes, for nearly three centuries, from becoming unquestioned and unlimited.

Ecclesiastical state reduced by Innocent III.

The policy of Rome was now more clearly defined than ever. In order to preserve what she

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League of Tuscany.

had thus suddenly gained rather by opportunity than strength, it was her interest to enfeeble the imperial power, and consequently to maintain the freedom of the Italian republics. Tuscany had hitherto been ruled by a marquis of the emperor's appointment, though her cities were flourishing, and, within themselves, independent. In imitation of the Lombard confederacy, and impelled by Innocent III., they now (with the exception of Pisa, which was always strongly attached to the empire) formed a similar league for the preservation of their rights. In this league the influence of the pope was far more strongly manifested than in that of Lombardy. Although the latter had been in alliance with Alexander III., and was formed during the height of his dispute with Frederic, this ecclesiastical quarrel mingled so little in their struggle for liberty, that no allusion to it is found in the act of their confederacy. But the Tuscan union was expressly established "for the honour and aggrandizement of the apostolic see." The members bound themselves to defend the possessions and rights of the church; and not to acknowledge any king or emperor, without the approbation of the supreme pontiff.* The Tuscans accordingly were more thoroughly attached to the church party, than the Lombards, whose principle was animosity towards the house of Swabia.

* Quod possessiones et jura sacrosanctæ ecclesiæ bonâ fide defenderent; et quod nullum in regem aut imperatorem reciperent, nisi quem Romanus pontifex approbaret. Muratori, Dissert. 48. (Latin, t. iv. p. 320.; Italian, t. iii. p. 112.)

Hence when Innocent III. some time after, supported Frederic II. against the emperor Otho IV. the Milanese and their allies were arranged on the imperial side; but the Tuscans continued to adhere to the pope.

Factions of Guelfs and Ghibelins.

In the wars of Frederic Barbarossa against Milan and their allies, we have seen the cities of Lombardy divided, and a considerable number of them firmly attached to the imperial interests. It does not appear, I believe, from history, though it is by no means improbable, that the citizens were at so early a time divided among themselves, as to their line of public policy, and that the adherence of a particular city to the emperor, or to the Lombard league, was only, as proved afterwards the case, that one faction or another acquired an ascendancy in its councils. But jealousies long existing between the different classes, and only suspended by the national struggle which terminated at Constance, gave rise to new modifications of interests, and new relations towards the empire. About the year 1200, or perhaps a little later, the two leading parties which divided the cities of Lombardy, and whose mutual animosity, having no general subject of contention, required the association of a name to direct as well as invigorate its prejudices, became distinguished by the celebrated appellations of Guelfs and Ghibelins; the former adhering to the papal side, the latter to that of the emperor. These names were derived from Germany, and had been the rallying word of faction for more than half a century in that country, before they were

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transported to a still more favourable soil. The Guelfs took their name from a very illustrious family, several of whom had successively been dukes of Bavaria in the tenth and eleventh centuries. The heiress of the last of these intermarried with a younger son of the house of Este, a noble family settled near Padua, and possessed of great estates on each bank of the lower Po. They gave birth to a second line of Guelfs, from whom the royal house of Brunswic is descended. The name of Ghibelin is derived from a village in Franconia, whence Conrad the Salic came, the progenitor, through females, of the Swabian emperors. At the election of Lothaire in 1125, the Swabian family were disappointed of what they considered almost an hereditary possession; and at this time an hostility appears to have commenced between them and the house of Guelf, who were nearly related to Lothaire. Henry the Proud and his son Henry the Lion, representatives of the latter family, were frequently persecuted by the Swabian emperors: but their fortunes belong to the history of Germany.* Meanwhile the elder branch, though not reserved for such glorious destinies as the Guelfs, continued to flourish in Italy; the marquises of Este were by far the most powerful nobles in eastern Lombardy, and about the end of the twelfth century began to be considered as

* The German origin of these celebrated factions is clearly proved by a passage in Otho of Frisingen, who lived half a century before we find the denominations transferred to Italy. Struvius, Corpus Hist. German. p. 378, and Muratori, A.D. 1152.

heads of the church party in their neighbourhood. They were frequently chosen to the office of podestà, or chief magistrate, by the cities of Romagna; and, in 1208, the people of Ferrara set the fatal example of sacrificing their freedom for tranquillity, by electing Azzo VII. marquis of Este as their lord or sovereign.*

Otho IV. was son of Henry the Lion, and consequently head of the Guelfs. On his obtaining the imperial crown, the prejudices of Italian factions were diverted out of their usual channel. He was soon engaged in a quarrel with the pope, whose hostility to the empire was certain, into whatever hands it might fall. In Milan, however, and generally in the cities which had belonged to the Lombard league against Frederic I. hatred of the house of Swabia prevailed more than jealousy of the imperial prerogatives; they adhered to names rather than to principles, and supported a Guelf emperor even against the pope. Terms of this description, having no definite relation to principles which it might be troublesome to learn and defend, are always acceptable to mankind, and have the peculiar advantage of precluding altogether that spirit of compromise and accommodation, by which it is sometimes endeavoured to obstruct their tendency to hate and injure each other. From this time, every city, and almost every citizen, gloried in one of these barbarous denominations. In several cities the imperial

Otho IV.

* Sismondi, t. ii. p. 329.

party predominated through hatred of their neighbours, who espoused that of the church. Thus the inveterate feuds between Pisa and Florence, Modena and Bologna, Cremona and Milan, threw them into opposite factions. But there was in every one of these a strong party against that which prevailed, and consequently a Guelf city frequently became Ghibelin, or conversely, according to the fluctuations of the time.*

Frederic II.

The change to which we have adverted in the politics of the Guelf party lasted only during the reign of Otho IV. When the heir of the house of Swabia grew up to manhood, Innocent, who, though his guardian, had taken little care of his interests, as long as he flattered himself with the hope of finding a Guelf emperor obedient, placed the young Frederic at the head of an opposition,

* For the Guelf and Ghibelin factions, besides the historians, the 51st dissertation of Muratori should be read. There is some degree of inaccuracy in his language, where he speaks of these distractions expiring at the beginning of the fifteenth century. Quel secolo, è vero, abbondò anch' esso di molte guerre, ma nulla si operò sotto nome o pretesto delle fazioni suddette. Solamente ritennero esse piede in alcune private famiglie. Antichità Italiane, t. iii. p. 148. But certainly the names of Guelf and Ghibelin, as party distinctions, may be traced all through the fifteenth century. The former faction shewed itself distinctly in the insurrection of the cities subject to Milan, upon the death of Gian Galeazzo Visconti in 1404. It appeared again in the attempt of the Milanese to re-establish their republic in 1447. Sismondi, t. ix. p. 334. So in 1477, Ludovico Sforza made use of Ghibelin prejudices to exclude the regent Bonne of Savoy as a Guelf. Sismondi, t. xi. p. 79. In the ecclesiastical state, the same distinctions appear to have been preserved still later. Stefano Infessura, in 1487, speaks familiarly of them. Script. Rer. Ital. t. iii. p. 1221. And even in the conquest of Milan by Louis XII. in 1500, the Guelfs of that city are represented as attached to the French party, while the Ghibelins abbetted Ludovico Sforza and Maximilian. Guicciardini, p. 399. Other passages in the same historian shew these factions to have been alive in various parts of Italy.

composed of cities always attached to his family, and of such as implicitly followed the see of Rome. He met with considerable success both in Italy and Germany, and, after the death of Otho, received the imperial crown. But he had no longer to expect any assistance from the pope who conferred it. Innocent was dead, and Honorius III., his successor, could not behold without apprehension the vast power of Frederic, supported in Lombardy by a faction which balanced that of the church, and menacing the ecclesiastical territories on the other side, by the possession of Naples and Sicily. This kingdom, feudatary to Rome, and long her firmest ally, was now, by a fatal connexion which she had not been able to prevent, thrown into the scale of her most dangerous enemy. Hence the temporal dominion which Innocent III. had taken so much pains to establish, became a very precarious possession, exposed on each side to the attacks of a power, that had legitimate pretensions to almost every province composing it. The life of Frederic II. was wasted in an unceasing contention with the church, and with his Italian subjects, whom she excited to rebellions against him. Without inveighing, like the popish writers, against this prince, certainly an encourager of letters, and endowed with many eminent qualities, we may lay to his charge a good deal of dissimulation; I will not add ambition, because I am not aware of any period in the reign of Frederic, when he was not obliged to act on his defence against the

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aggression of others. But if he had been a model of virtues, such men as Honorius III., Gregory IX. and Innocent IV., the popes with whom he had successively to contend, would not have given him respite, while he remained master of Naples, as well as the empire.*

It was the custom of every pope to urge princes into a crusade, which the condition of Palestine rendered indispensable, or, more properly, desperate. But this great piece of supererogatory devotion had never yet been raised into an absolute duty of their station, nor had even private persons been ever required to take up the cross by compulsion. Honorius III., however, exacted a vow from Frederic, before he conferred upon him the imperial crown, that he would undertake a crusade for the deliverance of Jerusalem. Frederic submitted to this engagement, which perhaps he never designed to keep, and certainly endeavoured afterwards to evade. Though he became by marriage nominal king of Jerusalem,† his excellent under-

* The rancour of bigoted Catholics against Frederic has hardly subsided at the present day. A very moderate commendation of him in Tiraboschi, vol. iv. t. 7. was not suffered to pass uncontradicted by the Roman editor. And though Muratori shews quite enough prejudice against that emperor's character, a fierce Roman bigot, whose animadversions are printed in the 17th volume of his annals, (8vo edition) flies into paroxysms of fury at every syllable that looks like moderation. It is well known, that, although the public policy of Rome has long displayed the pacific temper of weakness, the thermometer of ecclesiastical sentiment in that city stands very nearly as high, as in the thirteenth century. Giannone, who suffered for his boldness, has drawn Frederic II. very favourably, perhaps too favourably, in the 16th and 17th books of the Istoria Civile di Napoli.

† The second wife of Frederic was Iolante, or Violante, daughter of John, count of Brienne, by Maria, eldest daughter and heiress of Isabella, wife of Conrad, mar-

standing was not captivated with so barren a prospect, and at length his delays in the performance of his vow provoked Gregory IX. to issue against him a sentence of excommunication. Such a thunderbolt was not to be lightly regarded; and Frederic sailed, the next year, for Palestine. But having disdained to solicit absolution for what he considered as no crime, the court of Rome was excited to still fiercer indignation against this profanation of a crusade by an excommunicated sovereign. Upon his arrival in Palestine, he received intelligence that the papal troops had broken into the kingdom of Naples. No one could rationally have blamed Frederic, if he had quitted the Holy Land as he found it; but he made a treaty with the Saracens, which, though by no means so disadvantageous as under all the circumstances might have been expected, served as a pretext for new calumnies against him in Europe. The charge of irreligion, eagerly and successfully propagated, he repelled by persecuting edicts against heresy, that do no great honour to his memory,

quis of Montferrat. This Isabella was the youngest daughter of Almaric or Amaury, king of Jerusalem, and by the deaths of her brother Baldwin IV. of her eldest sister Sibilla, wife of Guy de Lusignan, and that sister's child Baldwin V., succeeded to a claim upon Jerusalem, which, since the victories of Saladin, was not very profitable. It is said that the kings of Naples deduce their title to that sounding inheritance from this marriage of Frederic, (Giannone, l. xvi. c. 2.) but the extinction of Frederic's posterity must have, strictly speaking, put an end to any right derived from him; and Giannone himself indicates a better title by the cession of Maria, a princess of Antioch, and legitimate heiress of Jerusalem, to Charles of Anjou in 1272. How far indeed this may have been regularly transmitted to the present king of Naples, I do not know, and am sure that it is not worth while to inquire.

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and availed him little at the time. Over his Neapolitan dominions he exercised a rigorous government, rendered perhaps necessary by the levity and insubordination characteristic of the inhabitants, but which tended, through the artful representations of Honorius and Gregory, to alarm and alienate the Italian republics.

His wars with the Lombards.

A new generation had risen up in Lombardy since the peace of Constance, and the prerogatives reserved by that treaty to the empire were so seldom called into action, that few cities were disposed to recollect their existence. They denominated themselves Guelfs or Ghibelins, according to habit, and out of their mutual opposition, but without much reference to the empire. Those however of the former party, and especially Milan, retained their antipathy to the House of Swabia. Though Frederic II. was entitled, as far as established usage can create a right, to the sovereignty of Italy, the Milanese would never acknowledge him, nor permit his coronation at Monza, according to ancient ceremony, with the iron crown of the Lombard kings. The pope fomented, to the utmost of his power, this disaffected spirit, and encouraged the Lombard cities to renew their former league. This, although conformable to a provision in the treaty of Constance, was manifestly hostile to Frederic, and may be considered as the commencement of a second contest between the republican cities of Lombardy and the empire. But there was a striking difference between this and the former

confederacy against Frederic Barbarossa. In the league of 1167, almost every city, forgetting all smaller animosities in the great cause of defending the national privileges, contributed its share of exertion to sustain that perilous conflict; and this transient unanimity in a people so distracted by internal faction as the Lombards is the surest witness to the justice of their undertaking. Sixty years afterwards, their war against the second Frederic had less of provocation and less of public spirit. It was in fact a party struggle of Guelf and Ghibelin cities, to which the names of the church and the empire gave more of dignity and consistence.

Arrangement of Lombard cities.

The republics of Italy in the thirteenth century were so numerous and independent, and their revolutions so frequent, that it is a difficult matter to avoid confusion in following their history. It will give more arrangement to our ideas, and at the same time illustrate the changes that took place in these little states, if we consider them as divided into four clusters or constellations, not indeed unconnected one with another, yet each having its own centre of motion, and its own boundaries. The first of these we may suppose formed of the cities in central Lombardy, between the Sessia and the Adige, the Alps and the Ligurian mountains; it comprehends Milan, Cremona, Pavia, Brescia, Bergamo, Parma, Piacenza, Mantua, Lodi, Alessandria, and several others less distinguished. These were the original seats of Italian liberty, the great movers in the wars of the

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elder Frederic. Milan was at the head of this cluster of cities, and her influence gave an ascendancy to the Guelf party; she had, since the treaty of Constance, rendered Lodi and Pavia almost her subjects, and was in strict union with Brescia and Piacenza. Parma, however, and Cremona, were unshaken defenders of the empire. In the second class we may place the cities of the March of Verona, between the Adige, and the frontiers of Germany. Of these there were but four worth mentioning; Verona, Vicenza, Padua, and Treviso. The citizens in all the four were inclined to the Guelf interests; but a powerful body of rural nobility, who had never been compelled, like those upon the upper Po, to quit their fortresses in the hilly country, or reside within the walls, attached themselves to the opposite denomination.* Some of them obtained very great authority in the civil feuds of these four republics; and especially two brothers, Eccelin and Alberic da Romano, of a rich and distinguished family, known for its devotion to the empire. By extraordinary vigour and decision of character, by dissimulation and breach of oaths, by the intimidating effects of almost unparalleled cruelty, Eccelin da Romano became after some years the absolute master of three cities, Padua, Verona, and Vicenza; and the Guelf party, in consequence, was entirely subverted beyond the Adige, during the continuance of his

* Sismondi, t. ii. p. 222.

tyranny.* Another cluster was composed of the cities in Romagna; Bologna, Imola, Faenza, Ferrara, and several others. Of these Bologna was far the most powerful, and, as no city was more steadily for the interests of the church, the Guelfs usually predominated in this class; to which also the influence of the house of Este not a little contributed. Modena, though not geographically within the limits of this division, may be classed along with it, from her constant wars with Bologna. A fourth class will comprehend the whole of Tuscany, separated almost entirely from the politics of Lombardy and Romagna. Florence headed the Guelf cities in this province, Pisa the Ghibelin. The Tuscan union was formed, as has been said above, by Innocent III., and was strongly inclined to the popes; but gradually the Ghibelin party acquired its share of influence; and the cities of Siena, Arezzo, and Lucca shifted their policy, according to external circumstances, or the fluctuations of their internal factions. The petty cities in the region of Spoleto and Ancona hardly perhaps deserve the name of republics; and Genoa does not readily fall into any of our four classes,

* The cruelties of Eccelin excited universal horror in an age, when inhumanity towards enemies was as common as fear and revenge could make it. It was an usual trick of beggars, all over Italy, to pretend that they had been deprived of their eyes or limbs by the Veronese tyrant. There is hardly an instance in European history of so sanguinary a government subsisting for more than twenty years. The crimes of Eccelin are remarkably well authenticated by the testimony of several contemporary writers, who enter into great details. Most of these are found in the seventh volume of Scriptores Rerum Italicarum. Sismondi, t. iii. p. 33. 111. 203. is more full than any of the moderns.

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unless her wars with Pisa may be thought to connect her with Tuscany.*

After several years of transient hostility and precarious truce, the Guelf cities of Lombardy engaged in a regular and protracted war with Frederic II. or more properly, with their Ghibelin adversaries. Few events of this contest deserve particular notice. Neither party ever obtained such decisive advantages as had alternately belonged to Frederic Barbarossa and the Lombard confederacy, during the war of the preceding century. A defeat of the Milanese by the emperor, at Corte Nuova, in 1237, was balanced by his unsuccessful seige of Brescia the next year. The Pisans assisted Frederic to gain a great naval victory over the Genoese fleet, in 1241; but he was obliged to rise from the blockade of Parma, which had left the standard of Ghibelinism in 1248. Ultimately, however, the strength of the house of Swabia was exhausted by so tedious a struggle; the Ghibelins of Italy had their vicissitudes of success; but their country, and even

* I have taken no notice of Piedmont in this division. The history of that country is far less elucidated by ancient or modern writers than that of other parts of Italy. It was at this time divided between the counts of Savoy and marquises of Montferrat. But Asti, Chieri, and Turin, especially the two former, appear to have had a republican form of government. They were however not absolutely independent. The only Piedmontese city that can properly be considered as a separate state, in the thirteenth century, was Vercelli; and even there the bishop seems to have possessed a sort of temporal sovereignty. Denina, author of the Rivoluzioni d' Italia, first printed in 1769, lived to publish in his old age a history of western Italy, or Piedmont, from which I have gleaned a few facts. Istoria dell' Italia Occidentale; Torino, 1809. 6 vols. 8vo.

themselves, lost more and more of the ancient connexion with Germany.

In this resistance to Frederic II., the Lombards were much indebted to the constant support of Gregory IX., and his successor Innocent IV.; and the Guelf, or the church party, were used as synonymous terms. These pontiffs bore an unquenchable hatred to the house of Swabia. No concessions mitigated their animosity; no reconciliation was sincere. Whatever faults may be imputed to Frederic, it is impossible for any one, not blindly devoted to the court of Rome, to deny, that he was iniquitously proscribed by her unprincipled ambition. His real crime was the inheritance of his ancestors, and the name of the house of Swabia. In 1239, he was excommunicated by Gregory IX. To this he was tolerably accustomed by former experience; but the sentence was attended by an absolution of his subjects from their allegiance, and a formal deposition. These sentences were not very effective upon men of vigorous minds, or upon those whose passions were engaged in their cause; but they influenced both those who feared the threatenings of the clergy, and those who wavered already as to their line of political conduct. In the fluctuating state of Lombardy, the excommunication of Frederic undermined his interests even in cities, like Parma, that had been friendly, and seemed to identify the cause of his enemies with that of religion; a prejudice, artfully fomented by means of calumnies propagated against himself, and which the

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conduct of such leading Ghibelins as Eccelin, who lived in an open defiance of God and man, did not contribute to lessen. In 1240, Gregory proceeded to publish a crusade against Frederic, as if he had been an open enemy to religion; which he revenged by putting to death all the prisoners he made who wore the cross. There was one thing wanting to make the expulsion of the emperor from the Christian commonwealth more complete. Gregory IX. accordingly projected, and Innocent IV. carried into effect, the convocation of a general council. This was held at Lyons, an imperial city, but over which Frederic could no longer retain his supremacy. In this assembly, where one hundred and forty prelates appeared, the question, whether Frederic ought to be deposed, was solemnly discussed; he submitted to defend himself by his advocates; and the pope in the presence, though without formally collecting the suffrages of the council, pronounced a sentence, by which Frederic's excommunication was renewed, the empire and all his kingdoms taken away, and his subjects absolved from their fidelity. This is the most pompous act of usurpation in all the records of the church of Rome; and the tacit approbation of a general council seemed to incorporate the pretended right of deposing kings, which might have passed as a mad vaunt of Gregory VII. and his successors, with the established faith of Christendom.

Council of Lyons. 1245

Upon the death of Frederic II. in 1250, he left to his son Conrad a contest to maintain for every

Conrad IV.

part of his inheritance, as well as for the imperial crown. But the vigour of the house of Swabia was gone; Conrad was reduced to fight for the kingdom of Naples, the only succession which he could hope to secure against the troops of Innocent IV., who still pursued his family with implacable hatred, and claimed that kingdom as forfeited to its feudal superior, the Holy See. After Conrad's premature death, which happened in 1254, the throne was filled by his illegitimate brother Manfred, who retained it by his bravery and address, in despite of the popes, till they were compelled to call in the assistance of a more powerful arm.

The death of Conrad brings to a termination that period in Italian history which we have described as nearly co-extensive with the greatness of the house of Swabia. It is perhaps upon the whole the most honourable to Italy; that, in which she displayed the most of national energy and patriotism. A Florentine or Venetian may dwell with pleasure upon later times; but a Lombard will cast back his eye across the desert of centuries, till it reposes on the field of Legnano. Great changes followed in the foreign and internal policy, in the moral and military character of Italy. But before we descend to the next period, it will be necessary to remark some material circumstances in that which has just passed under our review.

Causes of the success of Lombardy.

The successful resistance of the Lombard cities to such princes as both the Frederics must astonish a reader, who brings to the story of these middle

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ages notions derived from modern times. But when we consider not only the ineffectual controul which could be exerted over a feudal army, bound only to a short term of service, and reluctantly kept in the field at its own cost, but the peculiar distrust and disaffection with which many German princes regarded the house of Swabia, less reason will appear for surprize. Nor did the kingdom of Naples, almost always in agitation, yield any material aid to the second Frederic. The main cause, however, of that triumph which attended Lombardy was the intrinsic energy of a free government. From the eleventh century, when the cities became virtually republican, they put out those vigorous shoots which are the growth of freedom alone. Their domestic feuds, their mutual wars, the fierce assaults of their national enemies, checked not their strength, their wealth, or their population; but rather as the limbs are nerved by labour and hardship, the republics of Italy grew in vigour and courage, through the conflicts they sustained. If we but remember what savage licence prevailed during the ages that preceded their rise, the rapine of public robbers, or of feudal nobles little differing from robbers, the contempt of industrious arts, the inadequacy of penal laws and the impossibility of carrying them into effect, we shall form some notion of the change which was wrought in the condition of Italy by the growth of its cities. In comparison with the blessings of industry protected, injustice controuled, emulation awakened, the disorders which

ruffled their surface appear slight and momentary. I speak only of this first stage of their independence, and chiefly of the twelfth century, before those civil dissensions had reached their height, by which the glory and prosperity of Lombardy were soon to be subverted.

We have few authentic testimonies as to the domestic improvement of the free Italian cities, while they still deserve the name. But we may perceive by history, that their power and population, according to their extent of territory, were almost incredible. In Galvaneus Flamma, a Milanese writer, we find a curious statistical account of that city in 1288, which though of a date about thirty years after its liberties had been overthrown by usurpation, must be considered as implying a high degree of previous advancement, even if we make allowance, as probably we should, for some exaggeration. The inhabitants are reckoned at 200,000; the private houses 13,000; the nobility alone dwelt in sixty streets; 8,000 gentlemen, or heavy cavalry (milites) might be mustered from the city and its district, and 240,000 men capable of arms; a force sufficient, the writer observes, to crush all the Saracens. There were in Milan six hundred notaries, two hundred physicians, eighty schoolmasters, and fifty transcribers of manuscripts. In the district were one hundred and fifty castles with adjoining villages. Such was the state of Milan, Flamma concludes, in 1288; it is not for me to say, whe-

ther it has gained or lost ground since that time.* At this period, the territory of Milan was not perhaps more extensive than the county of Surrey; it was bounded, at a little distance, on almost every side, by Lodi, or Pavia, or Bergamo, or Como. It is possible, however, that Flamma may have meant to include some of these as dependencies of Milan, though not strictly united with it. How flourishing must the state of cultivation have been in such a country, which not only drew no supplies from any foreign land, but exported part of her own produce! It was in the best age of their liberties, immediately after the battle of Legnano, that the Milanese commenced the great canal which conducts the waters of the Tesino to their capital, a work very extraordinary for that time. During the same period, the cities gave proofs of internal prosperity that in many instances have descended to our own observation, in the solidity and magnificence of their architecture. Ecclesiastical structures were perhaps more splendid in France and England; but neither country could pretend to match the palaces and

* Muratori, Script. Rerum Italic. t. xi. This expression of Flamma may seem to intimate, that Milan had declined in his time, which was about 1340. Yet as she had been continually advancing in power, and had not yet experienced any tyrannical government, I cannot imagine this to have been the case; and the same Flamma, who is a great flatterer of the Visconti, and has dedicated a particular work to the praises of Azzo, asserts therein, that he had greatly improved the beauty and convenience of the city; though Brescia, Cremona, and other places had declined. Azarius too, a writer of the same age, makes a similar representation. Script. Rer. Ital. t. xvi. p. 314 and 317. Of Luchino Visconti he says; Statum Mediolani reintegravit in tantum, quod non civitas, sed provincia videbatur.

public buildings, the streets flagged with stone, the bridges of the same material, or the commodious private houses of Italy.*

The courage of these cities was wrought sometimes to a tone of insolent defiance, through the security inspired by their means of defence. From the time of the Romans, to that when the use of gunpowder came to prevail, little change was made, or perhaps could be made, in that part of military science which relates to the attack and defence of fortified places. We find precisely the same engines of offence; the cumbrous towers, from which arrows were shot at the besieged, the machines from which stones were discharged, the battering-rams which assailed the walls, and the basket-work covering (the vinea or testudo of the ancients, and the gattus or chatchateil of the middle ages) under which those who pushed the battering engine were protected from the enemy. On the other hand, a city was fortified with a strong wall of brick or marble, with towers raised upon it at intervals, and a deep moat in front. Sometimes the ante-mural or barbacan was added; a rampart of less height, which impeded the approach of the hostile engines. The gates were guarded with a portcullis; an invention, which, as well as the barbacan, was borrowed from the Saracens.† With such advantages for

* Sismondi, t. iv. p. 176. Tiraboschi, t. iv. p. 426. See also the observations of Denina on the population and agriculture of Italy, l. xiv. c. 9. 10. chiefly indeed applicable to a period rather later than that of her free republics.

† Muratori, Antiquit. Ital. Dissert. 26.

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defence, a numerous and intrepid body of burghers might not unreasonably stand at bay against a powerful army; and as the consequences of capture were most terrrible, while resistance was seldom hopeless, we cannot wonder at the desperate bravery of so many besieged towns. Indeed it seldom happened that one of considerable size was taken, except by famine or treachery. Tortona did not submit to Frederic Barbarossa, till the besiegers had corrupted with sulphur the only fountain that supplied the citizens; nor Crema, till her walls were overtopped by the battering engines. Ancona held out a noble example of sustaining the pressure of extreme famine. Brescia tried all the resources of a skilful engineer against the second Frederic; and swerved not from her steadiness, when that prince, imitating an atrocious precedent of his grandfather at the siege of Crema, exposed his prisoners upon his battering engines to the stones that were hurled by their fellow-citizens upon the walls.*

Their internal government.

Of the government which existed in the republics of Italy during the twelfth and thirteenth centuries, no definite sketch can be traced. The chroniclers of those times are few and jejune; and, as is usual with contemporaries, rather intimate than describe the civil polity of their respective countries. It would indeed be a weary task, if it were even possible, to delineate the

* See these sieges in the second and third volumes of Sismondi. That of Ancona, t. ii. p. 145—206. is told with remarkable elegance, and several interesting circumstances.

constitutions of thirty or forty little states which were in perpetual fluctuation. The magistrates elected in almost all of them, when they first began to shake off the jurisdiction of their count or bishop, were styled consuls; a word very expressive to an Italian ear, since, in the darkest ages, tradition must have preserved some acquaintance with the republican government of Rome.* The consuls were always annual; and their office comprehended the command of the national militia in war, as well as the administration of justice, and preservation of public order; but their number was various; two, four, six, or even twelve. In their legislative and deliberative councils, the Lombards still copied the Roman constitution, or perhaps fell naturally into the form most calculated to unite sound discretion with the exercise of popular sovereignty. A council of trust and secresy (della credenza) was composed of a small number of persons, who took the management of public affairs, and may be called the ministers of the state. But the decision upon matters of general importance, treaties of alliance or declarations of war, the choice of consuls or ambassadors, belonged to the general council. This appears not to have been uniformly constituted in every city; and, according to its composition, the government

* Landulf the younger, whose history of Milan extends from 1094 to 1133, calls himself publicorum officiorum particeps et *consulum* epistolarum dictator. Script. Rer. Ital. t. v. p. 486. This is, I believe, the earliest mention of those magistrates. Muratori, Annali d'Italia, A.D. 1107.

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was more or less democratical. An ultimate sovereignty, however, was reserved to the mass of the people; and a parliament or general assembly was held to deliberate on any change in the form of constitution.*

About the end of the twelfth century, a new and singular species of magistracy was introduced into the Lombard cities. During the tyranny of Frederic I. he had appointed officers of his own, called podestàs, instead of the elective consuls. It is remarkable that this memorial of despotic power should not have excited insuperable alarm and disgust in the free republics. But, on the contrary, they almost universally, after the peace of Constance, revived an office, which had been abrogated when they first rose in rebellion against Frederic. From experience, as we must presume, of the partiality which their domestic factions carried into the administration of justice, it became a general practice to elect, by the name of podestà, a citizen of some neighbouring state, as their general, their criminal judge, and preserver of the peace. The last duty was frequently arduous, and required a vigorous as well as an upright magistrate. Offences against the laws and security of the commonwealth were during the middle ages as often, perhaps more often, committed by the rich and powerful, than by the inferior class of society. Rude and licentious manners, family feuds and private revenge, or the mere insolence of strength,

* Muratori, Dissert. 46 and 52. Sismondi, t. i. p. 385.

rendered the execution of criminal justice, practically and in every day's experience, what it is now in theory, a necessary protection to the poor against oppression. The sentence of a magistrate against a powerful offender was not pronounced without danger of tumult; it was seldom executed without force. A convicted criminal was not, as at present, the stricken deer of society, whose disgrace his kindred shrink from participating, and whose memory they strive to forget. Imputing his sentence to iniquity, or glorying in an act, which the laws of his fellow-citizens, but not their sentiments, condemned, he stood upon his defence amidst a circle of friends. The law was to be enforced not against an individual, but a family; not against a family, but a faction; not perhaps against a local faction, but the whole Guelf or Ghibelin name, which might become interested in the quarrel. The podestà was to arm the republic against her refractory citizen; his house was to be besieged and razed to the ground, his defenders to be quelled by violence; and thus the people become familiar with outrage and homicide under the command of their magistrates, were more disposed to repeat such scenes at the instigation of their passions.*

The podestà was sometimes chosen in a general assembly, sometimes by a select number of citizens. His office was annual, though prolonged in pecu-

* Sismondi, t. iii. p. 258. from whom the substance of these observations is borrowed. They may be copiously illustrated by Villani's history of Florence, and Stella's annals of Genoa.

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liar emergencies. He was, invariably, a man of noble family, even in those cities which excluded their own nobility from any share in the government. He received a fixed salary, and was compelled to remain in the city, after the expiration of his office, for the purpose of answering such charges as might be adduced against his conduct. He could neither marry a native of the city, nor have any relation resident within the district, nor even, so great was their jealousy, eat or drink in the house of any citizen. The authority of these foreign magistrates was not by any means alike in all cities. In some he seems to have superseded the consuls, and commanded the armies in war. In others, as Milan and Florence, his authority was merely judicial. We find, in some of the old annals, the years headed by the names of the podestàs, as by those of the consuls in the history of Rome.*

and dissensions.

The effects of the evil spirit of discord, that had so fatally breathed upon the republics of Lombardy, were by no means confined to national interests, or to the grand distinction of Guelf and Ghibelin. Dissensions glowed in the heart of every city, and as the danger of foreign war became distant, these grew more fierce and unappeasable. The feudal system had been established upon the principle of territorial aristocracy; it maintained the authority, it encouraged the pride of rank. Hence, when the rural nobility were compelled to take up their residence in cities, they

* Muratori, Dissert. 46.

preserved the ascendancy of birth and riches. From the natural respect which is shewn to these advantages, all offices of trust and command were shared amongst them; it is not material whether this were by positive right, or continual usage. A limited aristocracy of this description, where the inferior citizens possess the right of selecting their magistrates by free suffrage from a numerous body of nobles, is not among the worst forms of government, and affords no contemptible security against oppression and anarchy. This regimen appears to have prevailed in most of the Lombard cities during the eleventh and twelfth centuries; though, in so great a deficiency of authentic materials, it would be too peremptory to assert this as an unequivocal truth. There is one very early instance, in the year 1041, of a civil war at Milan between the capitanei, or vassals of the empire, and the plebeian burgesses, which was appeased by the mediation of Henry III. This is ascribed to the ill treatment which the latter experienced; as was usual indeed in all parts of Europe, but which was endured with inevitable submission every where else. In this civil war, which lasted three years, the nobility were obliged to leave Milan, and carry on the contest in the adjacent plains; and one of their class, by name Lanzon, whether moved by ambition, or by virtuous indignation against tyranny, put himself at the head of the people.*

* Landulfus, Hist. Mediolan. in Script. Rerum Ital. t. iv. p. 86. Muratori, Dissert. 52. Annali d'Italia, A.D. 1041. St. Marc, t. iii. p. 94.

From this time we scarcely find any mention of dissensions among the two orders, till after the peace of Constance; a proof, however defective the contemporary annals may be, that such disturbances had neither been frequent nor serious. A schism between the nobles and people is noticed to have occurred at Faenza in 1185. A serious civil war of some duration broke out between them at Brescia in 1200. From this time mutual jealousies interrupted the domestic tranquillity of other cities, but it is about 1220 that they appear to have taken a decided aspect of civil war; within a few years of that epoch, the question of aristocratical or popular command was tried by arms in Milan, Piacenza, Modena, Cremona, and Bologna.*

It would be vain to enter upon the merits of these feuds, which the meagre historians of the time are seldom much disposed to elucidate, and which they saw with their own prejudices. A writer of the present age would shew little philosophy, if he were to heat his passions by the reflection, as it were, of those forgotten animosities, and aggravate, like a partial contemporary, the failings of one or another faction. We have no need of positive testimony to acquaint us with the general tenor of their history. We know that a nobility is always insolent, that a populace is always intemperate; and may safely presume, that the former began, as the latter ended, by injustice and abuse of power. At one time the aristocracy,

* Sismondi, t. ii. p. 444. Muratori, Annali d'Italia, A.D. 1185, &c.

not content with seeing the annual magistrates selected from their body, would endeavour by usurpation to exclude the bulk of the citizens from suffrage. At another, the merchants, grown proud by riches, and confident of their strength, would aim at obtaining the honours of the state, which had been reserved to the nobility. This is the inevitable consequence of commercial wealth, and indeed of freedom and social order, which are the parents of wealth. There is in the progress of civilization a term at which exclusive privileges must be relaxed, or the possessors must perish along with them. In one or two cities a temporary compromise was made through the intervention of the pope, whereby offices of public trust, from the highest to the lowest, were divided, in equal proportions or otherwise, between the nobles and the people. This also is no bad expedient, and proved singularly efficacious in appeasing the dissensions of Rome.

There is, however, a natural preponderance in the popular scale, which, in a fair trial, invariably gains on that of the less numerous class. The artizans, who composed the bulk of the population, were arranged in companies according to their occupations. Sometimes, as at Milan, they formed separate associations, with rules for their internal government.* These clubs, called at Milan la Motta and la Credenza, obtained a degree of weight not at all surprizing to those who consider

* Muratori, Dissert. 52. Sismondi, t. iii. p. 262.

the spirit of mutual attachment which belongs to such fraternities; and we shall see a more striking instance of this hereafter in the republic of Florence. To so formidable and organized a democracy, the nobles opposed their numerous families, the generous spirit that belongs to high birth, the influence of wealth and established name. The members of each distinguished family appear to have lived in the same street; their houses were fortified with square massive towers of commanding height, and wore the semblance of castles within the walls of a city. Brancaleon, the famous senator of Rome, destroyed one hundred and forty of these domestic entrenchments, which were constantly serving the purpose of civil broils and outrage. Expelled, as frequently happened, from the city, it was in the power of the nobles to avail themselves of their superiority in the use of cavalry, and to lay waste the district, till weariness of an unprofitable contention reduced the citizens to terms of compromise. But, when all these resources were ineffectual, they were tempted or forced to sacrifice the public liberty to their own welfare, and lent their aid to a foreign master or a domestic usurper.

In all these scenes of turbulence, whether the contest was between the nobles and people, or the Guelf and Ghibelin factions, no mercy was shewn by the conquerors. The vanquished lost their homes and fortunes, and retiring to other cities of their own party, waited for the opportunity of revenge. In a popular tumult, the houses of the beaten side were frequently levelled to the ground;

not perhaps from a sort of senseless fury which Muratori inveighs against, but on account of the injury which these fortified houses inflicted upon the lower citizens. The most deadly hatred is that which men exasperated by proscription and forfeiture bear to their country; nor have we need to ask any other cause for the calamities of Italy, than the bitterness with which an unsuccessful faction was thus pursued into banishment. When the Ghibelins were returning to Florence, after a defeat given to the prevailing party in 1260, it was proposed among them to demolish the city itself which had cast them out; and, but for the persuasion of one man, Farinata degl' Uberti, their revenge would have thus extinguished all patriotism.* It is to this that we must ascribe their proneness to call in assistance from every side, and to invite any servitude, for the sake of retaliating upon their adversaries. The simple love of public liberty is in general, I fear, too abstract a passion to glow warmly in the human breast; and though often invigorated as well as determined by personal animosities and predilections, is as frequently extinguished by the same cause.

Independently of the two leading differences which embattled the citizens of an Italian state, their form of government and their relation to the empire, there were others more contemptible,

* G. Villani, l. vi. c. 82. Sismondi. I cannot forgive Dante for placing this patriot trà l'anime più nere, in one of the worst regions of his Inferno. The conversation of the poet with Farinata, cant. 10. is very fine, and illustrative of Florentine history.

though not less mischievous. In every city the quarrels of private families became the foundation of general schism, sedition, and proscription. Sometimes these blended themselves with the grand distinctions of Guelf and Ghibelin; sometimes they were more nakedly conspicuous. This may be illustrated by one or two prominent examples. Imilda de' Lambertazzi, a noble young lady at Bologna, was surprized by her brothers in a secret interview with Boniface Gieremei, whose family had long been separated by the most inveterate enmity from her own. She had just time to escape: while the Lambertazzi dispatched her lover with their poisoned daggers. On her return, she found his body still warm, and a faint hope suggested the remedy of sucking the venom from his wounds. But it only communicated itself to her own veins; and they were found by her attendants, stretched lifeless by each other's side. So cruel an outrage wrought the Gieremei to madness; they formed alliances with some neighbouring republics; the Lambertazzi took the same measures; and after a fight in the streets of Bologna, of forty days duration, the latter were driven out of the city, with all the Ghibelins, their political associates. Twelve thousand citizens were condemned to banishment; their houses razed, and their estates confiscated.* Florence was at rest, till, in 1215, the assassination of an

* Sismondi, t. iii. p. 442. This story may suggest that of Romeo and Juliet, itself founded upon an Italian novel, and not an unnatural picture of manners.

individual produced a mortal feud between the families Buondelmonti and Uberti, in which all the city took a part. An outrage committed at Pistoja, in 1300, split the inhabitants into the parties of Bianchi and Neri; and these spreading to Florence, created one of the most virulent divisions which annoyed that republic. In one of the changes which attended this little ramification of faction, Florence expelled a young citizen who had borne offices of magistracy, and espoused the cause of the Bianchi. Dante Alighieri retired to the courts of some Ghibelin princes, where his sublime and inventive mind, in the gloom of exile, completed that original combination of vast and extravagant conceptions with keen political satire, which has given immortality to his name, and even lustre to the petty contests of his time.*

In the earlier stages of the Lombard republics, their differences, as well mutual as domestic, had been frequently appeased by the mediation of the emperors: and the loss of this salutary influence may be considered as no slight evil attached to that absolute emancipation which Italy attained in the thirteenth century. The popes sometimes endeavoured to interpose an authority, which, though not quite so direct, was held in greater veneration; and, if their own tempers had been always pure from the selfish and vindictive passions of those whom they influenced, might have produced more

* Dino Compagni, in Scr. Rer. Ital. t. ix. Villani, Ist. Fiorent. l. viii. Dante, passim.

general and permanent good. But they considered the Ghibelins as their own peculiar enemies, and the triumph of the opposite faction as the church's best security. Gregory X. and Nicholas III., whether from benevolent motives, or because their jealousy of Charles of Anjou, while at the head of the Guelfs, suggested the revival of a Ghibelin party as a counterpoise to his power, distinguished their pontificate by enforcing measures of reconciliation in all Italian cities; but their successors returned to the ancient policy and prejudices of Rome.

Giovanni di Vicenza.

The singular history of an individual far less elevated in station than popes or emperors, Fra Giovanni di Vicenza, belongs to these times, and to this subject. This Dominican friar began his career at Bologna in 1233, preaching the cessation of war, and forgiveness of injuries. He repaired from thence to Padua, to Verona, and the neighbouring cities. At his command men laid down their instruments of war, and embraced their enemies. With that susceptibility of transient impulse natural to popular governments, several republics implored him to reform their laws and to settle their differences. A general meeting was summoned in the plain of Paquara, upon the banks of the Adige. The Lombards poured themselves forth from Romagna and the cities of the March; Guelfs and Ghibelins, nobles and burghers, free citizens and tenantry of feudal lords, marshalled around their carroccios, caught from the lips of the preacher the illusive

promise of universal peace. They submitted to agreements dictated by Fra Giovanni, which contain little else than a mutual amnesty; whether it were that their quarrels had been really without object, or that he had dexterously avoided to determine the real points of contention. But power and reputation suddenly acquired are transitory. Not satisfied with being the legislator and arbiter of Italian cities, he aimed at becoming their master; and abused the enthusiasm of Vicenza and Verona, to obtain a grant of absolute sovereignty. Changed from an apostle to an usurper, the fate of Fra Giovanni might be predicted; and he speedily gave place to those, who, though they made a worse use of their power, had, in the eyes of mankind, more natural pretensions to possess it.*

* Tiraboschi, Storia della Letteratura, t. iv. p. 214. (a very well-written account.) Sismondi, t. ii. p. 484.

PART II.

State of Italy after the Extinction of the House of Swabia—Conquest of Naples by Charles of Anjou—The Lombard Republics become severally subject to Princes or Usurpers—The Visconti of Milan—their Aggrandizement—Decline of the Imperial Authority over Italy—Internal State of Rome—Rienzi—Florence—her forms of Government historically traced to the end of the fourteenth Century—Conquest of Pisa—Pisa—its Commerce, Naval Wars with Genoa, and Decay—Genoa—her Contentions with Venice—War of Chioggia—Government of Genoa—Venice—her Origin and Prosperity—Venetian Government—its Vices—Territorial Conquests of Venice—Military System of Italy—Companies of Adventure—1. foreign; Guarnieri, Hawkwood—and 2. native; Braccio, Sforza—Improvements in Military Service—Arms, offensive and defensive—Invention of Gunpowder—Naples—First Line of Anjou—Joanna I.—Ladislaus—Joanna II.—Francis Sforza becomes Duke of Milan—Alfonzo, King of Naples—State of Italy during the fifteenth Century—Florence—Rise of the Medici, and ruin of their Adversaries—Pretensions of Charles VIII. to Naples.

FROM the death of Frederic II. in 1250, to the invasion of Charles VIII. in 1494, a long and undistinguished period occurs, which it is impossible to break into any natural divisions. It is an age, in many respects, highly brilliant; the age of poetry and letters, of art, and of continual improvement. Italy displayed an intellectual superiority in this period over the Transalpine nations, which certainly had not appeared since the destruction of the Roman empire. But her political history

presents a labyrinth of petty facts, so obscure and of so little influence as not to arrest the attention; so intricate and incapable of classification, as to leave only confusion in the memory. The general events that are worthy of notice, and give a character to this long period, are the establishment of small tyrannies upon the ruins of republican government in most of the cities, the gradual rise of three considerable states, Milan, Florence, and Venice, the naval and commercial rivalry between the last city and Genoa, the final acquisition by the popes of their present territorial sovereignty, and the revolutions in the kingdom of Naples under the lines of Anjou and of Aragon.

After the death of Frederic II. the distinctions of Guelf and Ghibelin became destitute of all rational meaning. The most odious crimes were constantly perpetrated, and the utmost miseries endured, for an echo and a shade, that mocked the deluded enthusiasts of faction. None of the Guelfs denied the nominal, but indefinite sovereignty of the empire; and beyond a name the Ghibelins themselves would have been little disposed to carry it. But the virulent hatreds attached to these words grew continually more implacable, till ages of ignominy and tyrannical government had extinguished every energetic passion in the bosoms of a degraded people.

In the fall of the house of Swabia, Rome appeared to have consummated her triumph; and although the Ghibelin party was for a little time able to maintain itself, and even to gain ground

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in the north of Italy, yet two events that occurred not long afterwards, restored the ascendancy of their adversaries. The first of these was the fall of Eccelin da Romano, whose rapid successes in
1259 Lombardy appeared to threaten the establishment of a tremendous despotism, and induced a temporary union of Guelf and Ghibelin states, by which he was overthrown. The next, and far more important, was the change of dynasty in Naples. This kingdom had been occupied, after the death of Conrad, by his illegitimate brother, Manfred, in the behalf, as he at first pretended, of young
1254 Conradin the heir, but in fact as his own acquisition. He was a prince of an active and firm mind, well fitted for his difficult post, to whom the Ghibelins looked up as their head, and as the representative of his father. It was a natural object with the popes, independently of their ill will towards a son of Frederic II., to see a sovereign on whom they could better rely placed upon so neighbouring a throne. Charles, count of Anjou, brother of St. Louis, was tempted by them to lead a crusade (for as such all wars for the interest of Rome were now considered) against
1266 the Neapolitan usurper. The chance of a battle decided the fate of Naples, and had a striking influence upon the history of Europe for several centuries. Manfred was killed in the field; but there remained the legitimate heir of the Fredericks, a boy of seventeen years old, Conradin, son of Conrad, who rashly, as we say at least after the event, attempted to regain his inheritance. He

Affairs of Naples.

Charles of Anjou.

fell into the hands of Charles; and the voice of those rude ages, as well as of a more enlightened posterity, has united in branding with everlasting infamy the name of that prince, who did not hesitate to purchase the security of his own title by the public execution of an honourable competitor, or rather a rightful claimant of the throne he had usurped. With Conradin the house of Swabia was extinguished; but Constance the daughter of Manfred had transported *his* right to Sicily and Naples into the house of Aragon, by her marriage with Peter III. 1268

Decline of the Ghibelin party.

This success of a monarch, selected by the Roman Pontiffs as their particular champion, turned the tide of faction over all Italy. He expelled the Ghibelins from Florence, of which they had a few years before obtained a complete command by means of their memorable victory upon the river Arbia. After the fall of Conradin, that party was every where discouraged. Germany held out small hopes of support, even when the imperial throne, which had long been vacant, should be filled by one of her princes. The populace were, in almost every city, attached to the church, and to the name of Guelf; the kings of Naples employed their arms, and the popes their excommunications, so that for the remainder of the thirteenth century, the name of Ghibelin was a term of proscription in the majority of Lombard and Tuscan republics. Charles was constituted by the pope vicar-general in Tuscany. This was a new pretension of the Roman pontiffs,

to name the lieutenants of the empire during its vacancy, which indeed could not be completely filled up without their consent. It soon, however, became evident, that he aimed at the sovereignty of Italy. Some of the popes themselves, Gregory X. and Nicholas IV., grew jealous of their own creature. At the Congress of Cremona, in 1269, it was proposed to confer upon Charles the seigniory of all the Guelf cities; but the greater part were prudent enough to chuse him rather as a friend than a master.*

The Lombard cities become subject to lords.

The cities of Lombardy, however, of either denomination, were no longer influenced by that generous disdain of one man's will, which is to republican governments what chastity is to women; a conservative principle, never to be reasoned upon, or subjected to calculations of utility. By force, or stratagem, or free consent, almost all the Lombard republics had already fallen under the yoke of some leading citizen, who became the lord (Signore) or, in the Grecian sense, tyrant of his country. The first instance of a voluntary delegation of sovereignty was that, above mentioned, of Ferrara, which placed itself under the lord of Este. Eccelin made himself truly the tyrant of the cities

* Sismondi, t. iii. p. 417. Several however, including Milan, took an oath of fidelity to Charles the same year. ibid. In 1273, he was lord of Alessandria and Piacenza, and received tribute from Milan, Bologna, and most Lombard cities. Muratori. It was evidently his intention to avail himself of the vacancy of the empire, and either to acquire that title himself, or at least to stand in the same relation as the emperors had done to the Italian states; which, according to the usage of the twelfth and thirteenth centuries, left them in possession of every thing that we call independence, with the reservation of a nominal allegiance.

beyond the Adige; and such experience ought naturally to have inspired the Italians with more universal abhorrence of despotism. But every danger appeared trivial in the eyes of exasperated factions, when compared with the ascendancy of their adversaries. Weary of unceasing and useless contests, in which ruin fell with an alternate but equal hand upon either party, liberty withdrew from a people who disgraced her name; and the tumultuous, the brave, the intractable Lombards became eager to submit themselves to a master, and patient under the heaviest oppression. Or, if tyranny sometimes overstepped the limits of forbearance, and a seditious rising expelled the reigning prince, it was only to produce a change of hands, and transfer the impotent people to a different, and perhaps a worse, despotism.* In many cities, not a conspiracy was planned, not a sigh was breathed in favour of republican government, after once they had passed under the sway of a single person. The progress indeed was gradual, though sure, from limited to absolute, from temporary to hereditary power, from a just and conciliating rule, to extortion and cruelty. But before the middle of the fourteenth century, at the latest, all those cites

* See an instance of the manner in which one tyrant was exchanged for another, in the fate of Passerino Bonaccorsi, lord of Mantua, in 1328. Luigi di Gonzaga surprized him, rode the city (corse la città) with a troop of horse, crying, Viva il popolo, e muoja Messer Passerino e le sue gabelle! killed Passerino upon the spot, put his son to death in cold blood, e poi si fece signore della terra. Villani, l. x. c. 99. observes, like a good republican, that God had fulfilled in this the words of his Gospel, (query, what Gospel?) I will slay my enemy by my enemy; abbattendo l'uno tiranno per l'altro.

which had spurned at the faintest mark of submission to the emperors, lost even the recollection of self-government, and were bequeathed, like an undoubted patrimony, among the children of their new lords. Such is the progress of usurpation; and such the vengeance that Heaven reserves for those who waste in licence and faction its first of social blessings, liberty.*

The Torriani and Visconti at Milan.

The city most distinguished in both wars against the house of Swabia, for an unconquerable attachment to republican institutions, was the first to sacrifice them in a few years after the death of Frederic II. Milan had for a considerable time been agitated by civil dissensions between the nobility and inferior citizens. These parties were pretty equally balanced, and their success was consequently alternate. Each had its own podestà, as a party-leader, distinct from the legitimate magistrate of the city. At the head of the nobility was their archbishop Fra Leon Perego; the people chose Martin della Torre, one of a noble family which had ambitiously sided with the democratic faction. In consequence of the crime of a nobleman, who had murdered one of his credi-

* See the observations of Sismondi, t. iv. p. 212. on the conduct of the Lombard signori, (I know not of any English word that characterizes them, except *tyrant* in its primitive sense,) during the first period of their dominion. They were generally chosen in an assembly of the people, sometimes for a short term, prolonged in the same manner. The people was consulted upon several occasions. At Milan there was a council of 900 nobles, not permanent or representative, but selected and convened at the discretion of the government, throughout the reigns of the Visconti. Corio, p. 519. 583. Thus, as Sismondi remarks, they respected the sovereignty of the people, while they destroyed its liberty.

tors, the two parties took up arms in 1257. A civil war of various success, and interrupted by several pacifications, which, in that unhappy temper, could not be durable, was terminated in about two years by the entire discomfiture of the aristocracy, and by the election of Martin della Torre as chief and lord (capitano e signore) of the people. Though the Milanese did not probably intend to renounce the sovereignty resident in their general assemblies, yet they soon lost the republican spirit; five in succession of the family della Torre might be said to reign in Milan; each indeed by a formal election, but with an implied recognition of a sort of hereditary title. Twenty years afterwards, the Visconti, a family of opposite interests, supplanted the Torriani at Milan; and the rivality between these great houses was not at an end till the final establishment of Matteo Visconti in 1313: but the people were not otherwise considered than as aiding by force the one or other party, and at most deciding between the pretensions of their masters.

Revival of the Ghibelin party.

The vigour and concert infused into the Guelf party by the successes of Charles of Anjou was not very durable. That prince was soon involved in a protracted and unfortunate quarrel with the kings of Aragon, to whose protection his revolted subjects in Sicily had recurred. On the other hand, several men of energetic character retrieved the Ghibelin interests in Lombardy, and even in the Tuscan cities. The Visconti were acknowledged heads of that faction. A family early established as lords of Verona, the della Scala, maintained the

credit of the same denomination between the Adige and the Adriatic. Castruccio Castrucani, an adventurer of remarkable ability, rendered himself prince of Lucca, and drew over a formidable accession to the imperial side from the heart of the church-party in Tuscany, though his death restored the ancient order of things. The inferior tyrants were partly Guelf, partly Ghibelin, according to local revolutions; but upon the whole, the latter acquired a gradual ascendancy. Those indeed who cared for the independence of Italy, or for their own power, had far less to fear from the phantom of imperial prerogatives, long intermitted, and incapable of being enforced, than from the new race of foreign princes, whom the church had substituted for the house of Swabia. The Angevin kings of Naples were sovereigns of Provence, and from thence easily encroached upon Piedmont, and threatened the Milanese. Robert, the third of this line, almost openly aspired, like his grandfather Charles I., to a real sovereignty over Italy. His offers of assistance to Guelf cities in war were always coupled with a demand of the sovereignty. Many yielded to his ambition; and even Florence twice bestowed upon him a temporary dictatorship. In 1314, he was acknowledged lord of Lucca, Florence, Pavia, Alexandria, Bergamo, and the cities of Romagna. In 1318, the Guelfs of Genoa found no other resource against the Ghibelin emigrants who were under their walls, than to resign their liberties to the king of Naples for the term of ten years, which he procured to be renewed for

Kings of Naples aim at command of Italy.

six more. The Avignon popes, especially John XXII., out of blind hatred to the emperor Louis of Bavaria and the Visconti family, abetted all these measures of ambition. But they were rendered abortive by Robert's death, and the subsequent disturbances of his kingdom.

At the latter end of the thirteenth century, there were almost as many princes in the north of Italy, as there had been free cities in the preceding age. There equality, and the frequent domestic revolutions which made their seat unsteady, kept them for a while from encroaching on each other. Gradually, however, they became less numerous; a quantity of obscure tyrants were swept away from the smaller cities, and the people, careless or hopeless of liberty, were glad to exchange the rule of despicable petty usurpers for that of more distinguished and powerful families.

State of Lombardy in the middle of the fourteenth century.

About the year 1350, the central parts of Lombardy had fallen under the dominion of the Visconti. Four other houses occupied the second rank; that of Este at Ferrara and Modena; of Scala at Verona, which under Cane and Mastino della Scala had seemed likely to contest with the lords of Milan the supremacy over Lombardy; of Carrara at Padua, which later than any Lombard city had resigned her liberty; and of Gonzaga at Mantua, which, without ever obtaining any material extension of territory, continued, probably for that reason, to reign undisturbed till the eighteenth century. But these united were hardly a match, as they sometimes experienced, for the Visconti.

Power of the Visconti

That family, the object of every league formed in Italy for more than fifty years, in constant hostility to the church, and well enured to interdicts and excommunications, producing no one man of military talents, but fertile of tyrants detested for their perfidiousness and cruelty, was nevertheless enabled, with almost uninterrupted success, to add city after city to the dominion of Milan, till it absorbed all the north of Italy. Under Gian Galeazzo, whose reign began in 1385, the viper (their armorial bearing) assumed indeed a menacing attitude:* he overturned the great family of Scala, and annexed their extensive possessions to his own; no power intervened from Vercelli in Piedmont to Feltre and Belluno; while the free cities of Tuscany, Pisa, Siena, Perugia, and even Bologna, as if by a kind of witchcraft, voluntarily called in a dissembling tyrant as their master.

Powerful as the Visconti were in Italy, they were long in washing out the tinge of recent usurpation, which humbled them before the legitimate dynasties of Europe. At the siege of Genoa in 1318 Robert king of Naples rejected with contempt the challenge of Marco Visconti to decide their quarrel in single combat.† But the pride of sovereigns, like that of private men, is easily set

* Allusions to heraldry are very common in the Italian writers. All the historians of the fourteenth century habitually use the viper, il biscione, as a synonym for the power of Milan.

† Della qual cosa il Rè molto sdegno ne prese. Villani, l. ix. c. 93. It was reckoned a mis-alliance, as Dante tells us, in the widow of Nino di Gallura, a nobleman of Pisa, though a sort of prince in Sardinia, to marry one of the Visconti. Purgatorio, Cant. 8.

aside for their interest. Galeazzo Visconti purchased with 100,000 florins a daughter of France for his son, which the French historians mention as a deplorable humiliation for their crown. A few years afterwards, Lionel duke of Clarence, second son of Edward III., certainly not an inferior match, espoused Galeazzo's daughter. Both these connexions were short-lived; but the union of Valentine, daughter of Gian Galeazzo, with the duke of Orleans, in 1389, produced far more important consequences, and served to transmit a claim to her descendants Louis XII. and Francis I., from which the long calamities of Italy at the beginning of the sixteenth century were chiefly derived. Not long after this marriage, the Visconti were tacitly admitted among the reigning princes, by the erection of Milan into a duchy; 1395 under letters patent of the emperor Wenceslaus.*

Relations of the empire with Italy.

The imperial authority over Italy was almost entirely suspended after the death of Frederic II. A long interregnum followed in Germany; and when the vacancy was supplied by Rodolph of Hapsburg, he was too prudent to dissipate his 1272 moderate resources, where the great house of Swabia had failed. About forty years afterwards, the emperor Henry of Luxemburg, a prince, like Henry VII. Rodolph, of small hereditary possessions, but active 1309 and discreet, availed himself of the ancient respect borne to the imperial name, and the mutual jealousies of the Italians, to recover for a very short

* Corio, p. 538.

time a remarkable influence. But, though professing neutrality, and desire of union between the Guelfs and Ghibelins, he could not succeed in removing the distrust of the former; his exigencies impelled him to large demands of money; and the Italians, when they counted his scanty German cavalry, perceived that obedience was altogether a matter of their own choice. Henry died, however, in time to save himself from any decisive reverse. His successors, Louis of Bavaria, and Charles IV., descended from the Alps with similar motives, but after some temporary good fortune, were obliged to return not without discredit. Yet the Italians never broke that almost invisible thread which connected them with Germany; the fallacious name of Roman emperor still challenged their allegiance, though conferred by seven Teutonic electors without their concurrence. Even Florence, the most independent and high-spirited of republics, was induced to make a treaty with Charles IV. in 1355, which, while it confirmed all her actual liberties, not a little, by that very confirmation, affected her sovereignty.* This

* The republic of Florence was at this time in considerable peril from a coalition of the Tuscan cities against her, which rendered the protection of the emperor convenient. But it was very reluctantly that she acquiesced in even a nominal submission to his authority. The Florentine envoys, in their first address, would only use the words, Santa Corona, or Serenissimo Principe; sanza ricordarlo imperadore, o dimostrargli alcuna reverenza di suggezzione, domandando che il comune di Firenze volea, essendogli ubbidiente, le cotali e le cotali franchigie per mantenere il suo popolo nell' usata libertade. Mat. Villani, p. 274. (Script. Rer. Ital. t. xiv.) This style made Charles angry; and the city soon atoned for it by accepting his privilege. In this, it must be owned, he assumes a decided tone of sovereignty. The gonfalonier and priors are declared

deference to the supposed prerogatives of the empire, even while they were least formidable, was partly owing to jealousy of French or Neapolitan interference, partly to the national hatred of the popes who had seceded to Avignon, and in some degree to a misplaced respect for antiquity, to which the revival of letters had given birth. The great civilians, and the much greater poets of the fourteenth century, taught Italy to consider her emperor as a dormant sovereign, to whom her various principalities and republics were subordinate, and during whose absence alone they had legitimate authority.

Cession of Romagna to the popes.

In one part, however, of that country, the empire had, soon after the commencement of this period, spontaneously renounced its sovereignty. From the æra of Pepin's donation, confirmed and extended by many subsequent charters, the Holy See had tolerably just pretensions to the province entitled Romagna, or the exarchate of Ravenna. But the popes, whose menaces were dreaded at the extremities of Europe, were still very weak as temporal princes. Even Innocent III. had never been able to obtain possession of this part of

to be his vicars. The deputies of the city did homage and swore obedience. Circumstances induced the principal citizens to make this submission, which they knew to be merely nominal. But the high-spirited people, not so indifferent about names, came into it very unwillingly. The treaty was seven times proposed, and as often rejected in the consiglio del popolo, before their feelings were subdued. Its publication was received with no marks of joy. The public buildings alone were illuminated; but a sad silence indicated the wounded pride of every private citizen. M. Villani, p. 286. 290. Sismondi, t. vi. p. 238.

CHAP. III. PART II. ITALY.

St. Peter's patrimony. The circumstances of Rodolph's accession inspired Nicholas III. with more confidence. That emperor granted a confirmation of every thing included in the donations of Louis I., Otho, and his other predecessors; but was still reluctant or ashamed to renounce his imperial rights. Accordingly his charter is expressed to be granted without diminution of the empire (sine demembratione imperii); and his chancellor received an oath of fidelity from the cities of Romagna. But the pope insisting firmly on his own claim, Rodolph discreetly avoided involving himself in a fatal quarrel, and, in 1278, absolutely released the imperial supremacy over all the dominions already granted to the Holy See.*

This is a leading epoch in the temporal monarchy of Rome. But she stood only in the place of the emperor; and her ultimate sovereignty was compatible with the practical independence of the free cities, or of the usurpers who had risen up among them. Bologna, Faenza, Rimini, and Ravenna, with many others less considerable, took an oath indeed to the pope, but continued to regulate both their internal concerns and foreign relations at their own discretion. The first of these cities was far pre-eminent above the rest for population and renown, and, though not without several intermissions, preserved a republican character till the end of the fourteenth century. The

* Muratori, ad ann. 1274, 1275. 1278. Sismondi, t. iii. p. 461.

rest were soon enslaved by petty tyrants, more obscure than those of Lombardy. It was not easy for the pontiffs of Avignon to reinstate themselves in a dominion which they seemed to have abandoned; but they made several attempts to recover it, sometimes with spiritual arms, sometimes with the more efficacious aid of mercenary troops. The annals of this part of Italy are peculiarly uninteresting.

Internal state of Rome.

Rome itself was, throughout the middle ages, very little disposed to acquiesce in the government of her bishop. His rights were indefinite, and unconfirmed by positive law; the emperor was long sovereign, the people always meant to be free. Besides the common causes of insubordination and anarchy among the Italians, which applied equally to the capital city, other sentiments more peculiar to Rome preserved a continual, though not uniform, influence for many centuries. There still remained enough, in the wreck of that vast inheritance, to swell the bosoms of her citizens with a consciousness of their own dignity. They bore the venerable name, they contemplated the monuments of art and empire, and forgot, in the illusions of national pride, that the tutelar gods of the building were departed for ever. About the middle of the twelfth century, these recollections were heightened by the eloquence of Arnold of Brescia, a political heretic who preached against the temporal jurisdiction of the hierarchy. In a temporary intoxication of fancy, they were led to make a ridiculous shew

of self-importance towards Frederic Barbarossa, when he came to receive the imperial crown; but the German sternly chided their ostentation, and chastised their resistance.* With the popes they could deal more securely. Several of them were expelled from Rome during that age by the seditious citizens. Lucius II. died of hurts received in a tumult. The government was vested in fifty-six senators, annually chosen by the people, through the intervention of an electoral body, ten delegates from each of the thirteen districts of the city.† This constitution lasted not quite fifty years. In 1192, Rome imitated the prevailing fashion by the appointment of an annual foreign magistrate.‡ Except in name, the senator of Rome appears to have perfectly resembled the podestà of other cities. This magistrate superseded the representative senate who had proved by no means adequate to controul the most lawless aristocracy of Italy. I shall not repeat the story of Brancaleon's rigorous and inflexible justice, which a great historian has already drawn from obscurity. It illustrates not the annals of Rome alone, but the general state of Italian society, the nature of a podestà's duty, and the difficulties of its execution. The office of senator survives after

* The impertinent address of a Roman orator to Frederic, and his answer, are preserved in Otho of Frisingen, l. ii. c. 22. but so much at length, that we may suspect some exaggeration. Otho is rather rhetorical. They may be read in Gibbon, c. 69.

† Sismondi, t. ii. p. 36. Besides Sismondi and Muratori, I would refer for the history of Rome during the middle ages to the last chapters of Gibbon's Decline and Fall.

‡ Sismondi, t. ii. p. 308.

more than six hundred years; a foreign magistrate still resides in the Capitol; but he no longer wields the 'iron flail'* of Brancaleon, and his nomination proceeds of course from the supreme pontiff, not from the people. In the twelfth and thirteenth centuries, the senate, and the senator who succeeded them, exercised one distinguishing attribute of sovereignty, that of coining gold and silver money. Some of their coins still exist, with legends in a very republican tone.† Doubtless the temporal authority of the popes varied according to their personal character. Innocent III. had much more than his predecessors for almost a century, or than some of his successors. He made the senator take an oath of fealty to him, which, though not very comprehensive, must have passed in those times as a recognition of his superiority.‡

Though there was much less obedience to any legitimate power at Rome than any where else in Italy, even during the thirteenth century, yet after the secession of the popes to Avignon, their own city was left in a far worse condition than before. Disorders of every kind, tumult and robbery, prevailed in the streets. The Roman nobility were engaged in perpetual war with each other. Not content with their own fortified palaces, they turned the sacred monuments of anti-

* The readers of Spenser will recollect the iron flail of Talus, the attendant of Arthegal, emblematic of the severe justice of the lord deputy of Ireland, Sir Arthur Grey, shadowed under that allegory.

† Gibbon, vol. xii. p. 289. Muratori, Antiquit. Ital. Dissert. 27.

‡ Sismondi, p. 309.

CHAP. III. PART II. ITALY.

quity into strong holds, and consummated the destruction of time and conquest. At no period has the city endured such irreparable injuries; nor was the downfall of the western empire so fatal to its capital, as the contemptible feuds of the Orsini and Colonna families. Whatever there was of government, whether administered by a legate from Avignon, or by the municipal authorities, had lost all hold on these powerful barons. In the midst of this degradation and wretchedness, an obscure man, Nicola di Rienzi, conceived the project of restoring Rome not only to good order, but even to her ancient greatness. He had received an education beyond his birth, and nourished his mind with the study of the best writers. After many harangues to the people, which the nobility, blinded by their self-confidence, did not attempt to repress, Rienzi suddenly excited an insurrection, and obtained complete success. He was placed at the head of a new government, with the title of Tribune, and with almost unlimited power. The first effects of this revolution were wonderful. All the nobles submitted, though with great reluctance; the roads were cleared of robbers; tranquillity was restored at home; some severe examples of justice intimidated offenders; and the tribune was regarded by all the people as the destined restorer of Rome and Italy. Though the court of Avignon could not approve of such an usurpation, it temporized enough not directly to oppose it. Most of the Italian republics, and some of the princes, sent

The Tribune Rienzi.

1347

ambassadors, and seemed to recognize pretensions which were tolerably ostentatious. The king of Hungary and queen of Naples submitted their quarrel to the arbitration of Rienzi, who did not, however, undertake to decide upon it. But this sudden exaltation intoxicated his understanding, and exhibited failings entirely incompatible with his elevated condition. If Rienzi had lived in our own age, his talents, which were really great, would have found their proper orbit. For his character was one not unusual among literary politicians; a combination of knowledge, eloquence, and enthusiasm for ideal excellence, with vanity, inexperience of mankind, unsteadiness and physical timidity. As these latter qualities became conspicuous, they eclipsed his virtues and caused his benefits to be forgotten; he was compelled to abdicate his government, and retire into exile. After several years, some of which he passed in the prisons of Avignon, Rienzi was brought back to Rome, with the title of senator, and under the command of the legate. It was supposed that the Romans, who had returned to their habits of insubordination, would gladly submit to their favourite tribune. And this proved the case for a few months; but after that time they ceased altogether to respect a man, who so little respected himself in accepting a station where he could no longer be free, and Rienzi was killed in a sedition.*

* Sismondi, t. v. c. 37.; t. vi. p. 201. Gibbon, c. 70. De Sade, Vie de Pétrarque, t. ii. passim. Tiraboschi, t. vi. p. 339. It is dif-

Subsequent affairs of Rome.

Once more, not long after the death of Rienzi, the freedom of Rome seems to have revived in republican institutions, though with names less calculated to inspire peculiar recollections. Magistrates called bannerets, chosen from the thirteen districts of the city, with a militia of three thousand citizens at their command, were placed at the head of this commonwealth. The great object of this new organization was to intimidate the Roman nobility, whose outrages, in the total absence of government, had grown intolerable. Several of them were hanged the first year by order of the bannerets. The citizens, however, had no serious intention of throwing off their subjection to the popes. They provided for their own security, on account of the lamentable secession and neglect of those who claimed allegiance while they denied protection. But they were ready to acknowledge and welcome back their bishop as their sovereign. Even without this, they surrendered their republican constitution in 1362, it does not appear for

ficult to resist the admiration, which all the romantic circumstances of Rienzi's history tend to excite, and to which Petrarch so blindly gave way. That great man's characteristic excellence was not good common sense. He had imbibed two notions, of which it is hard to say which was the more absurd; that Rome had a legitimate right to all her ancient authority over the rest of the world; and that she was likely to recover this authority in consequence of the revolution produced by Rienzi. Giovanni Villani, living at Florence, and a staunch republican, formed a very different estimate, which weighs more than the enthusiastic panegyrics of Petrarch. La detta impresa del tribuno era un' opera fantastica, e di poco durare. l. xii. c. 90. An illustrious female writer has drawn with a single stroke the character of Rienzi, Crescentius, and Arnold of Brescia, the fond restorers of Roman liberty, *qui ont pris les souvenirs pour les espérances*. Corinne, t. i. p. 159. Could Tacitus have excelled this?

what reason, and permitted the legate of Innocent VI. to assume the government.* We find, however, the institution of bannerets revived, and in full authority some years afterwards. But the internal history of Rome appears to be obscure, and I have not had opportunities of examining it minutely. Some degree of political freedom the city probably enjoyed during the schism of the church; but it is not easy to discriminate the assertion of legitimate privileges, from the licentious tumults of the barons or populace. In 1435, the Romans formally took away the government from Eugenius IV. and elected seven signiors or chief magistrates, like the priors of Florence.† But this revolution was not of long continuance. On the death of Eugenius, the citizens deliberated upon proposing a constitutional charter to the future pope. Stephen Porcaro, a man of good family, and inflamed by a strong spirit of liberty, was one of their principal instigators. But the people did not sufficiently partake of that spirit. No measures were taken upon this occasion; and Porcaro, whose ardent imagination disguised the hopelessness of his enterprize, tampering in a fresh conspiracy, was put to death under the pontificate of Nicholas V.‡

* Matt. Villani, p. 576. 604. 709. Sismondi, t. v. p. 92. He seems to have overlooked the former period of government by bannerets and refers their institution to 1375.

† Script. Rerum Italic. t. iii. pars 2. p. 1126.

‡ Id. p. 1131. 1134. Sismondi, t. x. p. 18.

CHAP. III. PART II. ITALY.

Cities of Tuscany. Florence.

The province of Tuscany continued longer than Lombardy under the government of an imperial lieutenant. It was not till about the middle of the twelfth century that the cities of Florence, Lucca, Pisa, Siena, Arezzo, Pistoia, and several less considerable, which might perhaps have already their own elected magistrates, became independent republics. Their history is, with the exception of Pisa, very scanty till the death of Frederic II. The earliest fact of any importance recorded of Florence occurs in 1184, when it is said that Frederic Barbarossa took from her the dominion over the district or county, and restored it to the rural nobility, on account of her attachment to the church.* This I chiefly mention to illustrate the system pursued by the cities, of bringing the territorial proprietors in their neighbourhood under subjection. During the reign of Frederic II., Florence became, as far as she was able, an ally of the popes. There was indeed a strong Ghibelin party, comprehending many of the greatest families, which occasionally predominated through the assistance of the emperor. It seems, however, to have existed chiefly among the nobility; the spirit of the people was thoroughly Guelf. After several revolutions, accompanied by alternate proscription and demolition of houses, the Guelf party, through the assistance of Charles of Anjou, obtained a final ascendancy in 1266; and after one or two unavailing schemes of accom-

* Villani, l. v. c. 12.

modation, it was established as a fundamental law in the Florentine constitution, that no person of Ghibelin ancestry could be admitted to offices of public trust; which, in such a government, was in effect an exclusion from the privileges of citizenship.

Government of Florence.

The changes of internal government and vicissitudes of success among factions were so frequent at Florence, for many years after this time, that she is compared by her great banished poet to a sick man, who, unable to rest, gives himself momentary ease, by continual change of posture in his bed.* They did not become much less numerous after the age of Dante. Yet the revolutions of Florence should perhaps be considered as no more than a necessary price of her liberty. It was her boast and her happiness to have escaped, except for one short period, that odious rule of vile usurpers, under which so many other free cities had been crushed. A sketch of the constitution of so famous a republic ought not to be omitted in this place. Nothing else in the history of Italy after Frederic II. is so worthy of our attention.†

The basis of the Florentine polity was a division

* E se ben ti ricordi, e vedi lume,
Vedrai te somigliante a quella inferma,
Che non può trovar posa in sù le piume,
Ma con dar volta suo dolore scherma.
Purgatorio, cant. vi.

† I have found considerable difficulties in this part of my task; no author with whom I am acquainted, giving a tolerable view of the Florentine government, except M. Sismondi, who is himself not always satisfactory.

of the citizens exercising commerce, into their several companies or *arts*. These were at first twelve, seven called the greater arts, and five lesser; but the latter were gradually increased to fourteen. The seven greater arts were those of lawyers and notaries, of dealers in foreign cloth, called sometimes Calimala, of bankers or money-changers, of woollen drapers, of physicians and druggists, of dealers in silk, and of furriers. The inferior arts were those of retailers of cloth, butchers, smiths, shoemakers, and builders. This division, so far at least as regarded the greater arts, was as old as the beginning of the thirteenth century.* But it was fully established, and rendered essential to the constitution in 1266. By the provisions made in that year, each of the seven greater arts had a council of its own, a chief magistrate or consul who administered justice in civil causes to all members of his company, and a banneret (gonfaloniere) or military officer, to whose standard they repaired, when any attempt was made to disturb the peace of the city.

The administration of criminal justice belonged at Florence, as at other cities, to a foreign podestà, or rather to two foreign magistrates, the podestà, and the capitano del popolo, whose jurisdiction, so far as I can trace it, appears to have been concur-

* Ammirato ad ann. 1204 et 1235. Villani intimates, l. vii. c. 13. that the arts existed as commercial companies before 1266. Machiavelli and Sismondi express themselves rather inaccurately, as if they had been erected at that time, which indeed is the æra of their political importance.

rent.* In the first part of the thirteenth century, the authority of the podestà may have been more extensive than afterwards. These offices were preserved till the innovations of the Medici. The domestic magistracies underwent more changes. Instead of consuls, which had been the first denomination of the chief magistrates of Florence, a college of twelve or fourteen persons called Anziani or Buonuomini, but varying in name as well as number according to revolutions of party, was established about the middle of the thirteenth century, to direct public affairs.† This order was entirely changed in 1282, and gave place to a new form of supreme magistracy, which lasted till the extinction of the republic. Six priors, elected every two months, from each of the six quarters of the city, and from each of the greater arts, except that of lawyers, constituted an executive magistracy. They lived, during their continuance in office, in a palace belonging to the city, and were maintained at the public cost. The actual priors, jointly with the chiefs and councils (usually called la capitudine) of the seven greater arts, and with certain adjuncts (arroti) named by themselves, elected by ballot their successors. Such was the practice for about forty years after this government was established. But an innovation, begun in 1324, and perfected four years afterwards, gave a

* Matteo Villani, p. 194. G. Villani places the institution of the podestà in 1207; we find it however as early as 1184. Ammirato.

† G. Villani, l. vi. c. 39.

peculiar character to the constitution of Florence. A lively and ambitious people, not merely jealous of their public sovereignty, but deeming its exercise a matter of personal enjoyment, aware, at the same time, that the will of the whole body could neither be immediately expressed on all occasions, nor even through chosen representatives, without the risk of violence and partiality, fell upon the singular idea of admitting all citizens, not unworthy by their station or conduct, to offices of magistracy by rotation. Lists were separately made out by the priors, the twelve buonuomini, the chiefs and councils of arts, the bannerets and other respectable persons, of all citizens, Guelfs by origin, turned of thirty years of age, and, in their judgement, worthy of public trust. The lists thus formed were then united, and those who had composed them meeting together, in number ninety-seven, proceeded to ballot upon every name. Whoever obtained sixty-eight *black* balls was placed upon the reformed list; and all the names it contained, being put on separate tickets into a bag or purse (imborsati) were drawn successively as the magistracies were renewed. As there were above fifty of these, none of which could be held for more than four months, several hundred citizens were called in rotation to bear their share in the government within two years. But at the expiration of every two years, the scrutiny was renewed, and fresh names were mingled with those which still continued undrawn; so that accident

might deprive a man for life of his portion of sovereignty.*

Four councils had been established by the constitution of 1266, for the decision of all propositions laid before them by the executive magistrates, whether of a legislative nature, or relating to public policy. These were now abrogated; and in their places were substituted one of 300 members, all plebeians, called consiglio di popolo, and one of 250, called consiglio di commune, into which the nobles might enter. These were changed by the same rotation as the magistracies, every four months.† A parliament, or general assembly of the Florentine people, was rarely convoked; but the leading principle of a democratical republic, the ultimate sovereignty of the multitude, was not forgotten. This constitution of 1324 was fixed by the citizens at large in a parliament; and the same sanction was given to those temporary delegations of the signiory to a prince, which occasionally took place. What is technically called by their historians, *farsi popolo*, was the assembly of a parliament, or a resolution of all derivative powers into the immediate operation of the popular will.

* Villani, l. ix. c. 27. l. x. c. 110. l. xi. c. 105. Sismondi, t. v. p. 174. This species of lottery, recommending itself by an apparent fairness, and incompatibility with undue influence, was speedily adopted in all the neighbouring republics, and has always continued, according to Sismondi, in Lucca, and in those cities of the ecclesiastical state which preserved the privilege of chusing their municipal officers. p. 95.

† Id. ibid.

The ancient government of this republic appears to have been chiefly in the hands of its nobility. These were very numerous, and possessed large estates in the district. But by the constitution of 1266, which was nearly coincident with the triumph of the Guelf faction, the essential powers of magistracy, as well as of legislation, were thrown into the scale of the commons. The colleges of arts, whose functions became so eminent, were altogether commercial. Many indeed of the nobles enrolled themselves in these companies, and were among the most conspicuous merchants of Florence. These were not excluded from the executive colleges of the priors, at its first institution in 1282. It was necessary, however, to belong to one or other of the greater arts in order to reach that magistracy. The majority, therefore, of the ancient families saw themselves pushed aside from the helm, which was entrusted to a class whom they naturally held in contempt.

It does not appear that the nobility made any overt opposition to these democratical institutions. Confident in a force beyond the law, they cared less for what the law might provide against them. They still retained the proud spirit of personal independence, which had belonged to their ancestors in the fastnesses of the Apennines. Though the laws of Florence, and a change in Italian customs, had transplanted their residence to the city, it was in strong and lofty houses that they dwelt, among their kindred, and among the fellows of their rank.

Notwithstanding the tenor of the constitution, Florence was, for some years after the establishment of priors, incapable of resisting the violence of her nobility. Her historians all attest the outrages and assassinations committed by them on the inferior people. It was in vain that justice was offered by the podestà and the capitano del popolo. Witnesses dared not to appear against a noble offender; or if, on a complaint, the officer of justice arrested the accused, his family made common cause to rescue their kinsman, and the populace rose in defence of the laws, till the city was a scene of tumult and bloodshed. I have already alluded to this insubordination of the higher classes as general in the Italian republics; but the Florentine writers, being fuller than the rest, are our best specific testimonies.*

The dissensions between the patrician and plebeian orders ran very high, when Giano della 1295
Bella, a man of ancient lineage, but attached, without ambitious views, so far as appears, though not without passion, to the popular side, introduced a series of enactments exceedingly disadvantageous to the ancient aristocracy. The first of these was the appointment of an executive officer, the gonfalonier of justice; whose duty it was to enforce the sentences of the podestà and capitano del popolo, in cases where the ordinary officers were insufficient. A thousand citizens, afterwards increased

* Villani, l. vii. c. 113. l. viii. c. 8. Ammirato, Storia Fiorentina, l. iv. in cominciamento.

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1295

to four times that number, were bound to obey his commands. They were distributed into companies, the gonfaloniers or captains of which became a sort of corporation or college, and a constituent part of the government. This new militia seems to have superseded that of the companies of arts, which I have not observed to be mentioned at any later period. The gonfalonier of justice was part of the signiory along with the priors, of whom he was reckoned the president, and changed like them every two months. He was, in fact, the first magistrate of Florence.* If Giano della Bella had trusted to the efficacy of this new security for justice, his fame would have been beyond reproach. But he followed it up by harsher provisions. The nobility were now made absolutely ineligible to the office of prior. For an offence committed by one of a noble family, his relations were declared responsible in a penalty of 3000 pounds. And, to obviate the difficulty arising from the frequent intimidation of witnesses, it was provided, that common fame, attested by two credible persons, should be sufficient for the condemnation of a nobleman.†

* It is to be regretted, that the accomplished biographer of Lorenzo de' Medici should have taken no pains to inform himself of the most ordinary particulars in the constitution of Florence. Among many other errors, he says, vol. ii. p. 51. 5th edit. that the gonfalonier of justice was subordinate to the delegated mechanics, (a bad expression,) or priori dell' arti, whose number too he augments to ten. The proper style of the republic seems to run thus: I priori dell' arti e gonfaloniere di giustizia, il popolo e 'l comune della città di Firenze. G. Villani, l. xii. c. 109.

† Villani, l. viii. c. 1. Ammirato, p. 188. edit. 1647. A magistrate, called l' esecutor della giustizia, was appointed with authority equal to that of the podestà, for

These are the famous ordinances of justice, which passed at Florence for the great charter of her democracy. They have been reprobated in later times as scandalously unjust, and I have little inclination to defend them. The last, especially, was a violation of those eternal principles, which forbid us, for any calculations of advantage, to risk the sacrifice of innocent blood. But it is impossible not to perceive, that the same unjust severity has sometimes, under a like pretext of necessity, been applied to the weaker classes of the people, which they were in this instance able to exercise towards their natural superiors.

The nobility were soon aware of the position in which they stood. For half a century their great object was to procure the relaxation of the ordinances of justice. But they had no success with an elated enemy. In three years time indeed, Giano della Bella, the author of these institutions, was driven into exile; a conspicuous, though by no means singular, proof of Florentine ingratitude.* The wealth and physical strength of the nobles were however untouched; and their influence must always have been considerable. In the great feuds of the Bianchi and Neri, the ancient families were most distinguished. No man plays a greater part in the annals of Florence at the beginning of the fourteenth century, than Corso Donati, chief of the latter faction, who might pass as represen-

the special purpose of watching over the observation of the ordinances of justice. Ammirato, p. 666.

* Villani, l. viii. c. 8.

tative of the turbulent, intrepid, ambitious citizen-noble of an Italian republic.* But the laws gradually became more sure of obedience; the sort of proscription which attended the ancient nobles lowered their spirit; while a new aristocracy began to raise its head, the aristocracy of families who, after filling the highest magistracies for two or three generations, obtained an hereditary importance, which answered the purpose of more unequivocal nobility; just as in ancient Rome, plebeian families, by admission to curule offices, acquired the character and appellation of nobility, and were only distinguishable by their genealogy from the original patricians.† Florence had her plebeian nobles (popolani grandi), as well as Rome; the Peruzzi, the Ricci, the Albizi, the Medici, correspond to the Catos, the Pompeys, the Brutuses, and the Antonies. But at Rome the two orders, after an equal partition of the highest offices, were content to respect their mutual privileges; at Florence the commoners preserved a rigorous monopoly, and the distinction of high birth was, that it debarred men from political franchises and civil justice.‡

This second aristocracy did not obtain much more of the popular affection than that which it

* Dino Compagni. Villani.

† La nobiltà civile, se bene non ha baronaggi, è capace di grandissimi honori, percioche esercitando i supremi magistrati della sua patria, viene spesso a comandare a capitani d'eserciti e ella stessa per se ò in mare, ò in terra, molte volta i supremi carichi adopera. E tale è la Fiorentina nobiltà. Ammirato delle Famiglie Fiorentine. Firenze, 1614. p. 25.

‡ Quello, che all' altre città suolo recare splendore, in Firenze era dannoso, o veramente vano e inutile, says Ammirato of nobility. Storia Fiorentina, p. 161.

superseded. Public outrage and violation of law became less frequent; but the new leaders of Florence are accused of continual mis-government at home and abroad, and sometimes of peculation. There was of course a strong antipathy between the leading commoners and the ancient nobles; both were disliked by the people. In order to keep the nobles under more controul, the governing party more than once introduced a new foreign magistrate, with the title of captain of defence (della guardia) whom they invested with an almost unbounded criminal jurisdiction. One Gabrielli 1336
of Agobbio was twice fetched for this purpose; 1340
and in each case he behaved in so tyrannical a manner, as to occasion a tumult.* His office however was of short duration, and the title at least did not import a sovereign command. But very soon afterwards Florence had to experience one taste of a cup which her neighbours had drunk off to the dregs, and to animate her magnanimous love of freedom by a knowledge of the calamities of tyranny.

A war with Pisa, unsuccessfully, if not unskillfully, conducted, gave rise to such dissatisfaction in the city, that the leading commoners had recourse to an appointment something like that of Gabrielli, and from similar motives. Walter de Brienne, duke of Athens, was descended from one of the French crusaders who had dismembered the Grecian empire in the preceding century; but his father,

* Villani, l. xi. c. 39. and 117.

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defeated in battle, had lost the principality along with his life, and the titular duke was an adventurer in the court of France. He had been, however, slightly known at Florence on a former occasion. There was an uniform maxim among the Italian republics, that extraordinary powers should be conferred upon none but strangers. The duke of Athens was accordingly pitched upon for the military command, which was united with domestic jurisdiction. This appears to have been promoted by the governing party, in order to curb the nobility; but they were soon undeceived in their expectations. The first act of the duke of Athens was to bring four of the most eminent commoners to capital punishment for military offences. These sentences, whether just or otherwise, gave much pleasure to the nobles, who had so frequently been exposed to similar severity, and to the populace, who are naturally pleased with the humiliation of their superiors. Both of these were caressed by the duke, and both conspired, with blind passion, to second his ambitious views. It was proposed and carried in a full parliament, or assembly of the people, to bestow upon
1342 him the signiory for life. The real friends of their country, as well as the oligarchy, shuddered at this measure. Throughout all the vicissitudes of party, Florence had never yet lost sight of republican institutions. Not that she had never accommodated herself to temporary circumstances by naming a Signior. Charles of Anjou had been invested with that dignity for the term of ten

years; Robert king of Naples for five; and his son the duke of Calabria was at his death Signior of Florence. These princes named the podestà, if not the priors; and were certainly pretty absolute in their executive powers, though bound by oath not to alter the statutes of the city.* But their office had always been temporary. Like the dictatorship of Rome, it was a confessed, unavoidable evil; a suspension but not extinguishment of rights. Like that too, it was a dangerous precedent, through which crafty ambition and popular rashness might ultimately subvert the republic. If Walter de Brienne had possessed the subtle prudence of a Matteo Visconti, or a Cane della Scala, there appears no reason to suppose, that Florence would have escaped the fate of other cities; and her history might have become as useless a record of perfidy and assassination as that of Mantua or Verona.†

But, happily for Florence, the reign of tyranny was very short. The duke of Athens had neither judgement nor activity for so difficult a station. He launched out at once into excesses, which it would be desirable that arbitrary power should always commit at the outset. The taxes were considerably increased; their produce was dissipated. The honour of the state was sacrificed by an inglorious treaty with Pisa; her territory was diminished by some towns throwing off their dependence. Severe and multiplied punishments

* Villani, l. ix. c. 55. 60. 135. 328. † Id. l. xii. c. 1, 2, 3.

spread terror through the city. The noble families, who had on the duke's election destroyed the ordinances of justice, now found themselves exposed to the more partial caprice of a despot. He filled the magistracies with low creatures from the inferior artificers; a class which he continued to flatter.* Ten months passed in this manner, when three separate conspiracies, embracing most of the nobility and of the great commoners, were planned for the recovery of freedom. The duke was protected by a strong body of hired cavalry. Revolutions in an Italian city were generally effected by surprize. The streets were so narrow and so easily secured by barricades, that if a people had time to stand on its defence, no cavalry was of any avail. On the other hand, a body of lancers in plate-armour might dissipate any number of a disorderly populace. Accordingly, if a prince or usurper would get possession by surprize, he, as it was called, *rode the city*; that is, galloped with his cavalry along the streets, so as to prevent the people from collecting to erect barricades. This expression is very usual with historians of the fourteenth century.† The conspirators at Florence were too quick for the duke of Athens. The city was barricaded in every direction; and after a contest of some duration, he consented to abdicate his signiory.

Thus Florence recovered her liberty. Her con-

* Villani, c. 8.

† Id. l. x. c. 81. Castruccio . . . . corse la città di Pisa due volte. Sismondi, t. v. p. 105.

stitutional laws now seemed to revive of themselves. But the nobility, who had taken a very active part in the recent liberation of their country, thought it hard to be still placed under the rigorous ordinances of justice. Many of the richer commoners acquiesced in an equitable partition of magistracies, which was established through the influence of the bishop. But the populace of Florence, with its characteristic forgetfulness of benefits, was tenacious of those proscriptive ordinances. The nobles too, elated by their success, began again to strike and injure the inferior citizens. A new civil war in the city-streets decided their quarrel; after a desperate resistance, many of the principal houses were pillaged and burned; and the perpetual exclusion of the nobility was confirmed by fresh laws. But the people, now sure of their triumph, relaxed a little upon this occasion the ordinances of justice; and, to make some distinction in favour of merit or innocence, effaced certain families from the list of nobility. Five hundred and thirty persons were thus elevated, as we may call it, to the rank of commoners.* As it was beyond the competence of the republic of Florence to change a man's ancestors, this nominal alteration left all the real advantages

* Villani, l. xii. c. 18—23. Sismondi says, by a momentary oversight, cinq cent trente *familles*, t. v. p. 377. There were but thirty-seven noble families at Florence; as M. Sismondi himself informs us, t. iv. p. 66; though Villani reckons the number of individuals at 1500. Nobles, or *grandi*, as they are more strictly called, were such as had been inscribed, or rather proscribed, as such in the ordinances of justice; at least I do not know what other definition there was.

of birth as they were, and was undoubtedly an enhancement of dignity, though, in appearance, a very singular one. Conversely, several unpopular commoners were ennobled, in order to disfranchise them. Nothing was more usual, in subsequent times, than such an arbitrary change of rank, as a penalty or a benefit.* Those nobles, who were rendered plebeian by favour, were obliged to change their name and arms.† The constitution now underwent some change. From six the priors were increased to eight; and instead of being chosen from each of the greater arts, they were taken from the four quarters of the city, the lesser artizans, as I conceive, being admissible. The gonfaloniers of companies were reduced to sixteen. And these, along with the signiory, and the twelve buonuomini, formed the college, where every proposition was discussed, before it could be offered to the councils for their legislative sanction. But it could only originate, strictly speaking, in the signiory, that is, the gonfalonier of justice, and eight priors, the rest of the college having merely the function of advice and assistance.‡

Several years elapsed, before any material disturbance arose at Florence. Her contemporary historian complains indeed, that mean and ignorant

* Messer Antonio di Baldinaccio degli Adimari, tutto che fosse de più grandi e nobili, per grazia era messo tra 'l popolo. Villani, l. xii. c. 108.

† Ammirato, p. 748. There were several exceptions to this rule in later times. The Pazzi were made popolani, plebeians, by favour of Cosmo de' Medici. Machiavelli.

‡ Nardi, Storia di Firenze, p. 7. edit. 1584. Villani, loc. cit.

persons obtained the office of prior, and ascribes some errors in her external policy to this cause.* Besides the natural effects of the established rotation, a particular law, called the *divieto*, tended to throw the better families out of public office. By this law, two of the same name could not be drawn for any magistracy: which, as the ancient families were extremely numerous, rendered it difficult for their members to succeed; especially as a ticket once drawn was not replaced in the purse, so that an individual liable to the divieto was excluded until the next biennial revolution.† This created dissatisfaction among the leading families. They were likewise divided by a new faction, entirely founded, as far as appears, on personal animosity between two prominent houses, the Albizi and the Ricci. The city was, however, tranquil, when, in 1357, a spring was set in motion, which gave quite a different character to the domestic history of Florence.

At the time when the Guelfs, with the assistance of Charles of Anjou, acquired an exclusive domination in the republic, the estates of the Ghibelins were confiscated. One third of these confiscations was allotted to the state: another went to repair the losses of Guelf citizens; but the remainder became the property of a new corporate society, denominated the Guelf party (parte Guelfa) with a regular internal organization. The

* Matteo Villani in Script. Rer. Italic. t. xiv. p. 98. 244.

† Sismondi, t. vi. p. 338.

Guelf party had two councils, one of fourteen, and one of sixty members; three, or afterwards four, captains, elected by scrutiny every two months, a treasury, and common seal; a little republic within the republic of Florence. Their primary duty was to watch over the Guelf interest; and for this purpose they had a particular officer for the accusation of suspected Ghibelins.* We hear not much, however, of the Guelf society for near a century after their establishment. The Ghibelins hardly ventured to shew themselves, after the fall of the White Guelfs in 1304, with whom they had been connected, and confiscation had almost annihilated that unfortunate faction. But, as the oligarchy of Guelf families lost part of its influence through the divieto and system of lottery, some persons of Ghibelin descent crept into public offices; and this was exaggerated by the zealots of an opposite party, as if the fundamental policy of the city was put into danger.

The Guelf society had begun, as early as 1346, to manifest some disquietude at the foreign artizans, who, settling at Florence, and becoming members of some of the trading corporations, pretended to superior offices. They procured accordingly a law, excluding from public trust and magistracy all persons not being natives of the city or its territory. Next year they advanced a step farther; and, with the view to prevent disorder which seemed to threaten the city, a law

* G. Villani, l. vii. c. 16.

was passed, declaring every one, whose ancestors at any time since 1300 had been known Ghibelins, or who had not the reputation of sound Guelf principles, incapable of being drawn or elected to offices.* It is manifest, from the language of the historian who relates these circumstances, and whose testimony is more remarkable from his having died several years before the politics of the Guelf corporation more decidedly shewed themselves, that the real cause of their jealousy was not the increase of Ghibelinism, a merely plausible pretext, but the democratical character which the government had assumed, since the revolution of 1343; which raised the fourteen inferior arts to the level of those which the great merchants of Florence exercised. In the Guelf society, the ancient nobles retained a considerable influence. The laws of exclusion had never been applied to that corporation. Two of the captains were always noble, two were commoners. The people, in debarring the nobility from ordinary privileges, were little aware of the more dangerous channel which had been left open to their ambition. With the nobility some of the great commoners acted in concert, and especially the family and faction of the Albizi. The introduction of obscure persons into office still continued, and some measures more vigorous than the law of 1347 seemed necessary to restore the influence of their aristocracy. They proposed and, notwithstanding the reluctance of

* G. Villani, l. xii. c. 72. and 79.

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the priors, carried by violence, both in the preliminary deliberations of the signiory, and in the two councils, a law by which every person accepting an office who should be convicted of Ghibelinism or of Ghibelin descent, upon testimony of public fame, became liable to punishment, capital or pecuniary, at the discretion of the priors. To this law they gave a retrospective effect, and indeed it appears to have been little more than a revival of the provisions made in 1347, which had probably been disregarded. Many citizens who had been magistrates within a few years were cast in heavy fines on this indefinite charge. But the more usual practice was to warn (ammonire) men before-hand against undertaking public trust. If they neglected this hint, they were sure to be treated as convicted Ghibelins. Thus a very numerous class, called Ammoniti, was formed of proscribed and discontented persons, eager to throw off the intolerable yoke of the Guelf society. For the imputation of Ghibelin connexions was generally an unfounded pretext for crushing the enemies of the governing faction.* Men of approved Guelf principles and origin were every day warned from their natural privileges of sharing in magis-

* Besides the effect of ancient prejudice, Ghibelinism was considered at Florence, in the fourteenth century, as immediately connected with tyrannical usurpation. The Guelf party, says Matteo Villani, is the foundation rock of liberty in Italy; so that if any Guelf becomes a tyrant, he must of necessity turn to the Ghibelin side; and of this there have been many instances. p. 481. So Giovanni Villani says of Passerino, lord of Mantua, that his ancestors had been Guelfs, ma per essere signore e tiranno si fece Ghibellino. l. x. c. 99. And Matteo Villani of the Pepoli at Bologna; essendo di natura Guelfi, per la tirannia erano quasi alienati della parte. p. 69.

tracy. This spread an universal alarm through the city; but the great advantage of union and secret confederacy rendered the Guelf society, who had also the law on their side, irresistible by their opponents. Meanwhile the public honour was well supported abroad; Florence had never before been so distinguished as during the prevalence of this oligarchy.*

The Guelf society had governed with more or less absoluteness for near twenty years, when the republic became involved, through the perfidious conduct of the papal legate, in a war with the Holy See. Though the Florentines were by no means superstitious, this hostility to the church appeared almost an absurdity to determined Guelfs, and shocked those prejudices about names, which make up the politics of vulgar minds. The Guelf society, though it could not openly resist the popular indignation against Gregory XI., was not heartily inclined to this war. Its management fell therefore into the hands of eight commissioners, some of them not well affected to the society; whose administration was so successful and popular as to excite the utmost jealousy in the Guelfs. They began to renew their warnings, and in eight months excluded fourscore citizens.†

The tyranny of a court may endure for ages; but that of a faction is seldom permanent. In June 1378, the gonfalonier of justice was Salvestro de' Medici, a man of approved patriotism, whose

* M. Villani. p. 481. 637. 731. Ammirato. Machiavelli. Sismondi.

† Ammirato, p. 709.

family had been so notoriously of Guelf principles that it was impossible to warn him from office. He proposed to mitigate the severity of the existing law. His proposition did not succeed; but its rejection provoked an insurrection, the forerunner of still more alarming tumults. The populace of Florence, like that of other cities, was terrible in the moment of sedition; and a party so long dreaded shrunk before the physical strength of the multitude. Many leaders of the Guelf society had their houses destroyed, and some fled from the city. But instead of annulling their acts, a middle course was adopted by the committee of magistrates who had been empowered to reform the state; the Ammoniti were suspended three years longer from office, and the Guelf society preserved with some limitations. This temporizing course did not satisfy either the Ammoniti, or the populace. The greater arts were generally attached to the Guelf society. Between them and the lesser arts, composed of retail and mechanical traders, there was a strong jealousy. The latter were adverse to the prevailing oligarchy, and to the Guelf society, by whose influence it was maintained. They were eager to make Florence a democracy in fact, as well as in name, by participating in the executive government.

But every political institution appears to rest on too confined a basis, to those whose point of view is from beneath it. While the lesser arts were murmuring at the exclusive privileges of the

commercial aristocracy, there was yet an inferior class of citizens, who thought their own claims to equal privileges irrefragable. The arrangement of twenty-one trading companies had still left several kinds of artizans unincorporated, and consequently unprivileged. These had been attached to the art with which their craft had most connexion, in a sort of dependent relation. Thus to the company of drapers, the most wealthy of all the various occupations, instrumental in the manufacture, as wool-combers, dyers and weavers, were appendant.* Besides the sense of political exclusion, these artizans alledged, that they were oppressed by their employers of the art, and that when they complained to the consul, their judge in civil matters, no redress could be procured. A still lower order of the community was the mere populace, who did not practise any regular trade, or who only worked for daily hire. These were called Ciompi, a corruption, it is said, of the French compère.

"Let no one," says Machiavel in this place, "who begins an innovation in a state, expect that he shall stop it at his pleasure, or regulate it according to his intention." After about a month from the first sedition, another broke out, in which the ciompi, or lowest populace, were alone concerned. Through the surprize, or cowardice, or disaffection of the superior citizens, this was suf-

* Before the year 1340, according to Villani's calculation, the woollen trade occupied 30,000 persons. l. xi. c. 93.

fered to get ahead, and for three days the city was in the hand of a tumultuous rabble. It was vain to withstand their propositions, had they even been more unreasonable than they were. But they only demanded the establishment of two new arts for the trades hitherto dependent and one for the lower people; and that three of the priors should be chosen from the greater arts, three from the fourteen lesser, and two from those just created. Some delay however occurring to prevent the sanction of these innovations by the councils, a new fury took possession of the populace; the gates of the palace belonging to the signiory were forced open, the priors compelled to fly, and no appearance of a constitutional magistracy remained to throw the veil of law over the excesses of anarchy. The republic seemed to rock from its foundation, and the circumstance to which historians ascribe its salvation is not the least singular in this critical epoch. One Michel di Lando, a wool-carder, half dressed and without shoes, happened to hold the standard of justice wrested from the proper officer when the populace burst into the palace. Whether he was previously conspicuous in the tumult is not recorded; but the wild capricious mob, who had destroyed what they had no conception how to rebuild, suddenly cried out that Lando should be gonfalonier or signior, and reform the city at his pleasure.

A choice, arising probably from wanton folly, could not have been better made by wisdom. Lando was a man of courage, moderation, and

integrity. He gave immediate proofs of these qualities by causing his office to be respected. The eight commissioners of the war, who, though not instigators of the sedition, were well pleased to see the Guelf party so entirely prostrated, now fancied themselves masters, and began to nominate priors. But Lando sent a message to them, that he was elected by the people, and that he could dispense with their assistance. He then proceeded to the choice of priors. Three were taken from the greater arts; three from the lesser; and three from the two new arts, and the lower people. This eccentric college lost no time in restoring tranquillity, and compelled the populace by threat of punishment to return to their occupations. But the ciompi were not disposed to give up the pleasures of anarchy so readily. They were dissatisfied at the small share allotted to them in the new distribution of offices, and murmured at their gonfalonier as a traitor to the popular cause. Lando was aware that an insurrection was projected; he took measures with the most respectable citizens; the insurgents, when they shewed themselves, were quelled by force, and the gonfalonier retired from office with an approbation which all historians of Florence have agreed to perpetuate. Part of this has undoubtedly been founded on a consideration of the mischief which it was in his power to inflict. The ciompi, once checked, were soon defeated. The next gonfalonier was, like Lando, a wool-comber; but wanting the intrinsic merit of Lando, his mean station excited

universal contempt. None of the arts could endure their low coadjutors; a short struggle was made by the populace, but they were entirely overpowered with considerable slaughter, and the government was divided between the seven greater and sixteen lesser arts in nearly equal proportions.

The party of the lesser arts, or inferior tradesmen, which had begun this confusion, were left winners when it ceased. Three men of distinguished families, who had instigated the revolution, became the leaders of Florence; Benedetto Alberti, Tomaso Strozzi, and Georgio Scali. Their government had at first to contend with the ciompi, smarting under loss and disappointment. But a populace which is beneath the inferior mechanics may with ordinary prudence be kept in subjection by a government that has a well-organized militia at its command. The Guelf aristocracy was far more to be dreaded. Some of them had been banished, some fined, some ennobled; the usual consequences of revolution which they had too often practised to complain. A more iniquitous proceeding disgraces the new administration. Under pretence of conspiracy, the chief of the house of Albizi, and several of his most eminent associates, were thrown into prison. So little evidence of the charge appeared, that the podestà refused to condemn them; but the people were clamorous for blood, and half with, half without the forms of justice, these noble citizens were led to execution. The part he took in this murder sullies the fame of Benedetto Alberti, who

in his general conduct had been more uniformly influenced by honest principles than most of his contemporaries. Those who shared with him the ascendancy in the existing government, Strozzi and Scali, abused their power by oppression towards their enemies and insolence towards all. Their popularity was of course soon at an end. Alberti, a sincere lover of freedom, separated himself from men who seemed to emulate the arbitrary government they had overthrown. An outrage of Scali in rescuing a criminal from justice brought the discontent to a crisis; he was arrested, and lost his head on the scaffold; while Strozzi, his colleague, fled from the city. But this event was instantly followed by a reaction, which Alberti perhaps did not anticipate. Armed men filled the streets; the cry of Live the Guelfs was heard. After a three years depression, the aristocratical party regained its ascendant. They did not revive the severity practised towards the Ammoniti; but the two new arts, created for the small trades, were abolished, and the lesser arts reduced to a third part, instead of something more than one half, of public offices. Several persons who had favoured the plebeians were sent into exile; and among these Michel de Lando, whose great services in subduing anarchy ought to have secured the protection of every government. Benedetto Alberti, the enemy by turns of every faction, because every faction was in its turn oppressive, experienced some years afterwards the same fate. For half a century after this time, no revolution took place

at Florence. The Guelf aristocracy, strong in opulence and antiquity, and rendered prudent by experience, under the guidance of the Albizi family, maintained a preponderating influence, without much departing, the times considered, from moderation and respect for the laws.*

It is sufficiently manifest, from this sketch of the domestic history of Florence, how far that famous republic was from affording a perfect security for civil rights or general tranquillity. They who hate the name of free constitutions may exult in her internal dissensions, as in those of Athens or Rome. But the calm philosopher will not take his standard of comparison from ideal excellence, nor even from that practical good which has been reached in our own unequalled constitution, and in some of the republics of modern Europe. The men and the institutions of the fourteenth century are to be measured by their contemporaries. Who would not rather have been a citizen of Florence than a subject of the Visconti? In a superficial review of history, we are sometimes apt to exaggerate the vices of free states, and to lose sight of those inherent in tyrannical power. The bold censoriousness of republican historians, and the cautious servility of

* For this part of Florentine history, besides Ammirato, Machiavel, and Sismondi, I have read an interesting narrative of the sedition of the ciompi, by Gino Capponi, in the eighteenth volume of Muratori's collection. It has an air of liveliness and truth which is very pleasing, but it breaks off rather too soon, at the instant of Lando's assuming the office of banneret. Another contemporary writer, Melchione de Stefani, who seems to have furnished the materials of the three historians above mentioned, has not fallen in my way.

writers under an absolute monarchy, conspire to mislead us as to the relative prosperity of nations. Acts of outrage and tumultuous excesses in a free state are blazoned in minute detail, and descend to posterity; the deeds of tyranny are studiously and perpetually suppressed. Even those historians who have no particular motives for concealment turn away from the monotonous and disgusting crimes of tyrants. "Deeds of cruelty," it is well observed by Matteo Villani, after relating an action of Bernabo Visconti, "are little worthy of remembrance; yet let me be excused for having recounted one out of many, as an example of the peril to which men are exposed under the yoke of an unbounded tyranny."* The reign of Bernabo afforded abundant instances of a like kind. Second only to Eccelin among the tyrants of Italy, he rested the security of his dominion upon tortures and death, and his laws themselves enact the protraction of capital punishment through forty days of suffering.† His nephew Giovanni Maria is said, with a madness like that of Nero or Commodus, to have coursed the streets of Milan by night with blood-hounds, ready to chase and tear any unlucky passenger.‡ Nor were other Italian principalities free from similar tyrants, though none perhaps upon the whole so odious as the Visconti. The private history of many families, such for instance as the Scala and the Gonzaga, is

* P. 434.

† Sismondi, t. vi. p. 316. Corio, Ist. di Milano, p. 486.

‡ Corio, p. 595.

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but a series of assassinations. The ordinary vices of mankind assumed a tint of portentous guilt in the palaces of Italian princes. Their revenge was fratricide, and their lust was incest.

Acquisitions of territory by Florence.

Though fertile and populous, the proper district of Florence was by no means extensive. An independent nobility occupied the Tuscan Apennines with their castles. Of these the most conspicuous were the counts of Guidi, a numerous and powerful family, who possessed a material influence in the affairs of Florence and of all Tuscany till the middle of the fourteenth century, and some of whom preserved their independence much longer.* To the south the republics of Arezzo, Perugia and Siena; to the west those of Volterra, Pisa, and Lucca; Prato and Pistoja to the north, limited the Florentine territory. It was late before these boundaries were removed. During the usurpations of Uguccione at Pisa, and of Castruccio at Lucca, the republic of Florence was always unsuccessful in the field. After the death of Castruccio, she began to act more vigorously, and engaged in several confederacies with the powers of Lombardy, especially in a league with Venice against Mastino della Scala. But the republic made no acquisition of territory till 1351, when she annexed the small city of Prato, not ten miles from her walls.† Pis-

* G. Villani, l. v. c. 37. 41. et alibi. The last of the counts Guidi, having unwisely embarked in a confederacy against Florence, was obliged to give up his ancient patrimony in 1440.

† M. Villani, p. 72. This was rather a measure of usurpation; but the republic had some reason to apprehend that Prato might fall into the hands of the Visconti. Their conduct towards Pistoja was influenced by the same motive; but it was still further removed from absolute justice. p. 91.

toja, though still nominally independent, received a Florentine garrison about the same time. Several additions were made to the district, by fair purchase from the nobility of the Apennines, and a few by main force. The territory was still very little proportioned to the fame and power of Florence. The latter was founded upon her vast commercial opulence. Every Italian state employed mercenary troops, and the richest was of course the most powerful. In the war against Mastino della Scala in 1336, the revenues of Florence are reckoned by Villani at three hundred thousand florins; which, as he observes, is more than the king of Naples or of Aragon possesses.* The expenditure went at that time very much beyond the receipt, and was defrayed by loans from the principal mercantile firms, which were secured by public funds; the earliest instance, I believe, of that financial resource.† Her population was computed at ninety thousand souls. Villani reckons the district at eighty thousand men, I presume those only of military age; but this calculation must have been too large, even though he included, as we may presume, the city in his estimate.‡ Tuscany, though well cultivated and

* G. Villani, l. xi. c. 90—93. These chapters contain a very full and interesting statement of the revenues, expenses, population, and internal condition of Florence at that time. Part of them is extracted by M. Sismondi, t. v. p. 365. The gold florin was worth about ten shillings of our money. The district of Florence was not then much larger than Middlesex. At present, the revenues of the whole duchy of Tuscany are much less than 150,000*l.* sterling; though the difference in the value of money is very considerable.

† G. Villani, l. xi. c. 49.

‡ C. 93. Troviamo diligente-

Pisa.

flourishing, does not contain by any means so great a number of inhabitants in that space at present.

The first eminent conquest made by Florence was that of Pisa, early in the fifteenth century. Pisa had been distinguished as a commercial city ever since the age of the Othos. From her ports, and those of Genoa, the earliest naval armaments

mente, che in questi tempi avea in Firenze circa a 25 mila uomini da portare arme da 15 in 70 anni—Istamavasi avere in Firenze da 90 mila bocche tra uomini e femine e fanciulli, per l' avviso del pane bisognava al continavo alla città. These proportions, of 25,000 men between fifteen and seventy, and of 90,000 souls, are as nearly as possible consonant to modern calculation, of which Villani knew nothing, which confirms his accuracy; though M. Sismondi asserts, p. 369, that the city contained 150,000 inhabitants, on no better authority, as far as appears, than that of Boccaccio, who says, that 100,000 perished in the great plague of 1348, which was generally supposed to destroy two out of three. But surely two vague suppositions are not to be combined, in order to overthrow such a testimony as that of Villani, who seems to have consulted all registers and other authentic documents in his reach.

What Villani says of the population of the district may lead us to reckon it, perhaps, at about 180,000 souls, allowing the baptisms to be one in thirty of the population. Ragionavasi in questi tempi avere nel contado e distretto di Firenze de 80 mila uomini. Troviamo dal piovano, che battezzava i fanciulli, imperoche per ogni maschio, che battezzava in San Giovanni, per avere il novero, metea una fava nera, e per ogni femina una bianca, trovò, ch' erano l'anno in questi tempi dalle 5800 in sei mila, avanzando le più volte il sesso masculino da 300 in 500 per anno. Baptisms could only be performed in one public font, at Florence, Pisa, and some other cities. The building that contained this font was called the Baptistery. The baptisteries of Florence and Pisa still remain, and are well known. Du Cange, v. Baptisterium. But there were fifty-seven parishes, and one hundred and ten churches within the city. Villani. ibid. Mr. Roscoe has published a manuscript, evidently written after the taking of Pisa in 1406, though, as I should guess, not long after that event, containing a proposition for an income tax of ten per cent. throughout the Florentine dominions. Among its other calculations, the population is reckoned at 400,000; assuming that to be the proportion to 80,000 men of military age, though certainly beyond the mark. It is singular that the district of Florence in 1343, is estimated by Villani to contain as great a number, before Pisa, Volterra, or even Prato and Pistoja had been annexed to it. Roscoe's Life of Lorenzo. Appendix, No. 16.

of the western nations were fitted out against the Saracen corsairs who infested the Mediterranean coasts. In the eleventh century, she undertook, and, after a pretty long struggle, completed the important, or at least the splendid conquest of Sardinia; an island long subject to a Moorish chieftain. Several noble families of Pisa, who had defrayed the chief cost of this expedition, shared the island in districts, which they held in fief of the republic.* At a later period, the Balearic isles were subjected, but not long retained by Pisa. Her naval prowess was supported by her commerce. A writer of the twelfth century reproaches her with the Jews, the Arabians, and other "monsters of the sea," who thronged in her streets.† The crusades poured fresh wealth into the lap of the maritime Italian cities. In some of those expeditions a great portion of the armament was conveyed by sea to Palestine, and freighted the vessels of Pisa, Genoa, and Venice. When the Christians had bought with their blood the sea-coast of Syria, these republics procured the most extensive privileges in the new states that were formed out of their slender conquests, and became the conduits through which the produce of the east flowed in upon the ruder natives of Europe. Pisa main-

* Sismondi, t. i. p. 345. 372.

† Qui pergit Pisas, videt illic monstra marina;
Hæc urbs Paganis, Turchis, Libycis quoque, Parthis,
Sordida; Chaldæi sua lustrant mœnia tetri.
Donizo, Vita Comitissæ Mathildis, apud Muratori, Dissert. 31.

tained a large share of this commerce, as well as of maritime greatness, till near the end of the thirteenth century. In 1282, we are told by Villani, she was in great power, possessing Sardinia, Corsica, and Elba; "from whence the republic, as well as private persons, derived large revenues; and almost ruled the sea by their ships and merchandizes, and beyond sea were very powerful in the city of Acre, and much connected with the principal citizens of Acre."* The prosperous æra of the Pisans is marked by their public edifices. She was the first Italian city that took a pride in architectural magnificence. Her cathedral is of the eleventh century; the baptistery, the famous inclined tower, or belfry, the arcades that surround the Campo Santo, or cemetery of Pisa, are of the twelfth, or, at latest, of the thirteenth.†

It would have been no slight anomaly in the annals of Italy, or we might say, of mankind, if two neighbouring cities, competitors in every mercantile occupation, and every naval enterprize, had not been perpetual enemies to each other. One is more surprized, if the fact be true, that no war broke out between Pisa and Genoa till 1119.‡ From this time at least they continually recurred. An equality of forces and of courage kept the conflict uncertain for the greater part of two centuries. Their battles were numerous, and sometimes, taken separately, decisive; but the public spirit and re-

* Villani, l. vi. c. 83.

† Sismondi, t. iv. p. 178. Tiraboschi, t. iii. p. 406.

‡ Muratori, ad ann. 1119.

sources of each city were called out by defeat, and we generally find a new armament replace the losses of an unsuccessful combat. In this respect, the naval contest between Pisa and Genoa, though much longer protracted, resembles that of Rome and Carthage in the first Punic war. But Pisa was reserved for her Ægades. In one fatal battle, off the little isle of Meloria, in 1284, her whole navy was destroyed. Several unfortunate and expensive armaments had almost exhausted the state; and this was the last effort, by private sacrifices, to equip one more fleet. After this defeat it was in vain to contend for empire. Eleven thousand Pisans languished for many years in prison; it was a current saying, that whoever would see Pisa, should seek her at Genoa. A treacherous chief, that Count Ugolino, whose guilt was so terribly avenged, is said to have purposely lost the battle, and prevented the ransom of the captives, to secure his power; accusations that obtain easy credit with an unsuccessful people.

From the epoch of the battle of Meloria, Pisa ceased to be a maritime power. Forty years afterwards she was stripped of her ancient colony, the island of Sardinia. The four Pisan families who had been invested with that conquest had been apt to consider it as their absolute property; their appellation of judge seemed to indicate deputed power; but they sometimes assumed that of king; and several attempts had been made to establish an immediate dependence on the empire, or even on the pope. A new potentate had now come

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forward on the stage. The malecontent feudataries of Sardinia made overtures to the king of Aragon, who had no scruples about attacking the indisputable possession of a declining republic. Pisa made a few unavailing efforts to defend Sardinia; but the nominal superiority was hardly worth a contest; and she surrendered her rights to the crown of Aragon. Her commerce now dwindled with her greatness. During the fourteenth century, Pisa almost renounced the ocean, and directed her main attention to the politics of Tuscany. Ghibelin by invariable predilection, she was in constant opposition to the Guelf cities which looked up to Florence. But in the fourteenth century the names of freeman and Ghibelin were not easily united; and a city in that interest stood insulated between the republics of an opposite faction, and the tyrants of her own. Pisa fell several times under the yoke of usurpers; she was included in the wide-spreading acquisitions of Gian Galeazzo Visconti; at his death one of his family seized the dominion, and finally the Florentines purchased for 400,000 florins a rival and once equal city. The Pisans made a resistance more according to what they had been, than what they were.

Genoa.—Her wars with Pisa.

The early history of Genoa, in all her foreign relations, is involved in that of Pisa. As allies against the Saracens of Africa, Spain and the Mediterranean islands, as corrivals in commerce with these very Saracens, or with the Christians of the east, as co-operators in the great expeditions under

the banner of the cross, or as engaged in deadly warfare with each other, the two republics stand in continual parallel. From the beginning of the thirteenth century, Genoa was, I think, the more prominent and flourishing of the two. She had conquered the island of Corsica, at the same time that Pisa reduced Sardinia; and her acquisition, though less considerable, was longer preserved. Her territory at home, the ancient Liguria, was much more extensive, and, what was most important, contained a greater range of sea coast than that of Pisa. But the commercial and maritime prosperity of Genoa may be dated from the recovery of Constantinople by the Greeks in 1261. Jealous of the Venetians, by whose arms the Latin emperors had been placed, and were still maintained on their throne, the Genoese assisted Palæologus in overturning that usurpation. They obtained in consequence the suburb of Pera or Galata over against Constantinople as an exclusive settlement, where their colony was ruled by a magistrate sent from home, and frequently defied the Greek capital with its armed gallies and intrepid seamen. From this convenient station Genoa extended her commerce into the Black Sea, and established her principal factory at Caffa, in the Crimean peninsula. This commercial monopoly, for such she endeavoured to render it, aggravated the animosity of Venice. As Pisa retired from the field of waters, a new enemy appeared upon the horizon to dispute the maritime dominion of Genoa. Her first war with Venice was in

And Venice.

1258. The second was not till after the victory of Meloria had crushed her more ancient enemy. It broke out in 1293, and was prosecuted with determined fury, and a great display of naval strength on both sides. One Genoese armament, as we are assured by an historian, consisted of one hundred and fifty-five gallies, each manned with from two hundred and twenty to three hundred sailors;* a force astonishing to those who know the slender resources of Italy in modern times, but which is rendered credible by several analogous facts of good authority. It was, however, beyond any other exertion. The usual fleets of Genoa and Venice were of seventy to ninety gallies.

Perhaps the naval exploits of these two republics may afford a more interesting spectacle to some minds than any other part of Italian history. Compared with military transactions of the same age, they are more sanguinary, more brilliant, and exhibit full as much skill and intrepidity. But maritime warfare is scanty in circumstances, and the indefiniteness of its locality prevents it from resting in the memory. And though the wars of Genoa and Venice were not always so unconnected with territorial politics as those of the former city with Pisa, yet, from the alternation of success and equality of forces, they did not often produce any decisive effect. One memorable encounter in the sea of Marmora, where the Genoese fought and conquered single-handed against the Venetians, the

* Muratori, A.D. 1295.

Catalans, and the Greeks, hardly belongs to Italian history.*

1352 War of Chioggia.

But the most remarkable war, and that productive of the greatest consequences, was one that commenced in 1378, after several acts of hostility in the Levant, wherein the Venetians appear to have been the principal aggressors. Genoa did not stand alone in this war. A formidable confederacy was exerted against Venice, who had given provocation to many enemies. Of this Francis Carrara, signor of Padua, and the king of Hungary were the leaders. But the principal struggle was, as usual, upon the waves. During the winter of 1378, a Genoese fleet kept the sea, and ravaged the shores of Dalmatia. The Venetian armament had been weakened by an epidemic disease, and when Vittor Pisani, their admiral, gave battle to the enemy, he was compelled to fight with a hasty conscription of landsmen against the best sailors in the world. Entirely defeated, and taking refuge at Venice with only seven gallies, Pisani was cast into prison, as if his ill fortune had been his crime. Meanwhile the Genoese fleet, augmented by a strong reinforcement, rode before the long natural ramparts that separate the lagunes of Venice from the Adriatic. Six passages intersect the islands, which constitute this barrier, besides the broader outlets of Brondolo and Fossone, through which the waters of the Brenta and the Adige are discharged. The lagune itself, as is well known,

* Gibbon, c. 63.

consists of extremely shallow water, unnavigable for any vessel, except along the course of artificial and intricate passages. Notwithstanding the apparent difficulties of such an enterprize, Pietro Doria, the Genoese admiral, determined to reduce the city. His first successes gave him reason to hope. He forced the passage, and stormed the little town of Chioggia,* built upon the inside of the isle bearing that name, about twenty-five miles south of Venice. Nearly four thousand prisoners fell here into his hands: an augury, as it seemed, of a more splendid triumph. In the consternation this misfortune inspired at Venice, the first impulse was to ask for peace. The ambassadors carried with them seven Genoese prisoners, as a sort of peace-offering to the admiral, and were empowered to make large and humiliating concessions, reserving nothing but the liberty of Venice. Francis Carrara strongly urged his allies to treat for peace. But the Genoese were stimulated by long hatred, and intoxicated by this unexpected opportunity of revenge. Doria, calling the ambassadors into council, thus addressed them: "Ye shall obtain no peace from us, I swear to you, nor from the lord of Padua, till first we have put a curb in the mouths of those wild horses that stand upon the place of St. Mark. When they are bridled, you shall have enough of peace. Take back with you your Genoese captives, for I am

* Chioggia, known at Venice by the name of Chioza, according to the usage of the Venetian dialect, which changes the *g* into *z*.

coming within a few days to release both them and their companions from your prisons." When this answer was reported to the senate, they prepared to defend themselves with the characteristic firmness of their government. Every eye was turned towards a great man unjustly punished, their admiral Vittor Pisani. He was called out of prison to defend his country amidst general acclamations; but equal in magnanimity and simple republican patriotism to the noblest characters of antiquity, Pisani repressed the favouring voices of the multitude, and bade them reserve their enthusiasm for St. Mark, the symbol and war-cry of Venice. Under the vigorous command of Pisani, the canals were fortified or occupied by large vessels, armed with artillery; thirty-four gallies were equipped; every citizen contributed according to his power; in the entire want of commercial resources (for Venice had not a merchant ship during this war) private plate was melted; and the senate held out the promise of ennobling thirty families, who should be most forward in this strife of patriotism.

The new fleet was so ill provided with seamen, that for some months the admiral employed them only in manœuvring along the canals. From some unaccountable supineness, or more probably from the insuperable difficulties of the undertaking, the Genoese made no assault upon the city. They had indeed fair grounds to hope its reduction by famine or despair. Every access to the continent was cut off by the troops of Padua; and the king

of Hungary had mastered almost all the Venetian towns in Istria and along the Dalmatian coast. The doge Contarini, taking the chief command, appeared at length with his fleet near Chioggia, before the Genoese were aware. They were still less aware of his secret design. He pushed one of the large round vessels then called *cocche* into the narrow passage of Chioggia, which connects the lagune with the sea, and mooring her athwart the channel, interrupted that communication. Attacked with fury by the enemy, this vessel went down on the spot, and the doge improved his advantage, by sinking loads of stones, until the passage became absolutely unnavigable. It was still possible for the Genoese fleet to follow the principal canal of the lagune towards Venice and the northern passages, or to sail out of it by the harbour of Brondolo; but whether from confusion or from miscalculating the dangers of their position, they suffered the Venetians to close the canal upon them by the same means they had used at Chioggia, and even to place their fleet in the entrance of Brondolo, so near to the lagune that the Genoese could not form their ships in line of battle. The circumstances of the two combatants were thus entirely changed. But the Genoese fleet, though besieged in Chioggia, was impregnable, and their command of the land secured them from famine. Venice, notwithstanding her unexpected success, was still very far from secure; it was difficult for the doge to keep his position through the winter; and if the enemy could

appear in open sea, the risks of combat were extremely hazardous. It is said, that the senate deliberated upon transporting the seat of their liberty to Candia, and that the doge had announced his intention to raise the siege of Chioggia, if expected succours did not arrive by the first of January 1380. On that very day, Carlo Zeno, an admiral, who, ignorant of the dangers of his country, had been supporting the honour of her flag in the Levant, and on the coasts of Liguria, appeared with a reinforcement of eighteen gallies, and a store of provisions. From that moment the confidence of Venice revived. The fleet, now superior in strength to the enemy, began to attack them with vivacity. After several months of obstinate resistance, the Genoese, whom their republic had ineffectually attempted to relieve by a fresh armament, blocked up in the town of Chioggia, and pressed by hunger, were obliged to surrender. Nineteen gallies only out of forty-eight were in good condition; and the crews were equally diminished in the ten months of their occupation of Chioggia. The pride of Genoa was deemed to be justly humbled; and even her own historian confesses, that God would not suffer so noble a city as Venice to become the spoil of a conqueror.*

* G. Stella, Annales Genuenses, Gataro, Istoria Padovana. Both these contemporary works, of which the latter gives the best relation, are in the seventeenth volume of Muratori's collection. M. Sismondi's narrative is very clear and spirited. Hist. des Républ. Ital. t. vii. p. 205—232.

Each of the two republics had sufficient reason to lament their mutual prejudices, and the selfish cupidity of their merchants, which usurps in all maritime countries the name of patriotism. Though the capture of Chioggia did not terminate the war, both parties were exhausted, and willing, next year, to accept the mediation of the duke of Savoy. By the peace of Turin, Venice surrendered most of her territorial possessions to the king of Hungary. That prince, and Francis Carrara, were the only gainers. Genoa obtained the isle of Tenedos, one of the original subjects of dispute; a poor indemnity for her losses. Though, upon a hasty view, the result of this war appears more unfavourable to Venice, yet in fact it is the epoch of the decline of Genoa. From this time she never commanded the ocean with such navies as before; her commerce gradually went into decay; and the fifteenth century, the most splendid in the annals of Venice, is, till recent times, the most ignominious in those of Genoa. But this was partly owing to internal dissensions, by which her liberty, as well as glory, was for a while suspended.

Government of Genoa.

At Genoa, as in other cities of Lombardy, the principal magistrates of the republic were originally styled Consuls. A chronicle drawn up under the inspection of the senate perpetuates the names of these early magistrates. It appears that their numbers varied from four to six, annually elected by the people in their full parliament. These consuls presided over the republic and commanded the forces by land and sea; while another class of

magistrates, bearing the same title, were annually elected by the several companies into which the people were divided, for the administration of civil justice.* This was the regimen of the twelfth century; but in the next, Genoa fell into the fashion of entrusting the executive power to a foreign podestà. The podestà was assisted by a council of eight, chosen by the eight companies of nobility. This institution, if indeed it were any thing more than a custom or usurpation, originated probably not much later than the beginning of the thirteenth century. It gave not only an aristocratic, but almost an oligarchical character to the constitution, since many of the nobility were not members of these eight societies. Of the senate or councils we hardly know more than their existence; they are very little mentioned by historians. Every thing of a general nature, every thing that required the expression of public will, was reserved for the entire and unrepresented sovereignty of the people. In no city was the parliament so often convened; for war, for peace, for alliance, for change of government.† These very dissonant elements were not likely to harmonize. The people, sufficiently accustomed to the forms of democracy to imbibe its spirit, repined at the practical influence which was thrown into the scale of the nobles. Nor did some of the latter class scruple to enter that path of ambition, which leads to power by flattery of the populace. Two or

* Sismondi, t. i. p. 353. † Id. t. iii. p. 319.

three times within the thirteenth century, an high-born demagogue had nearly overturned the general liberty, like the Torriani at Milan, through the pretence of defending that of individuals.* Among the nobility themselves, four houses were distinguished beyond all the rest; the Grimaldi, the Fieschi, the Doria, the Spinola; the two former of Guelf politics, the latter adherents of the empire.† Perhaps their equality of forces, and a jealousy which even the families of the same faction entertained of each other, prevented any one from usurping the signiory at Genoa. Neither the Guelf nor Ghibelin party obtaining a decisive preponderance, continual revolutions occurred in the city. The most celebrated was the expulsion of the Ghibelins under the Doria and Spinola in 1318. They had recourse to the Visconti of Milan, and their own resources were not unequal to cope with their country. The Guelfs thought it necessary to call in Robert king of Naples, always ready to give assistance as the price of dominion, and conferred upon him the temporary sovereignty of Genoa. A siege of several years duration, if we believe an historian of that age, produced as many remarkable exploits as that of Troy. They have not proved so interesting to posterity. The Ghibelins continued for a length of time excluded from the city, but in possession of the sea port of Savona, whence they traded and equipped fleets, as a rival republic, and even

* Sismondi, p. 324. † Id. t. iii. p. 328.

entered into a separate war with Venice.* Experience of the uselessness of hostility, and the loss to which they exposed their common country, produced a reconciliation, or rather a compromise in 1331, when the Ghibelins returned to Genoa. But the people felt that many years of misfortune had been owing to the private enmities of four over-bearing families. An opportunity soon offered of reducing their influence within very narrow bounds.

Election of the first doge.

The Ghibelin faction was at the head of affairs in 1339, a Doria and a Spinola being its leaders, when the discontent of a large fleet in want of pay broke out in open insurrection. Savona and the neighbouring towns took arms avowedly against the aristocratical tyranny; and the capital was itself on the point of joining the insurgents. There was, by the Genoese constitution, a magistrate, named the Abbot of the people, acting as a kind of tribune for their protection against the oppression of the nobility. His functions are not, however, in any book I have seen, very clearly defined. This office had been abolished by the present government, and it was the first demand of the malecontents that it should be restored. This was acceded to, and twenty delegates were appointed to make the choice. While they delayed and the populace was grown weary of waiting, a nameless artizan called out from an elevated station, that he could direct them to a fit person. When the

* Villani, l. ix. passim.

people, in jest, bade him speak on, he uttered the name of Simon Boccanegra. This was a man of noble birth, and well esteemed, who was then present among the crowd. The word was suddenly taken up; a cry was heard that Boccanegra should be abbot; he was instantly brought forward, and the sword of justice forced into his hand. As soon as silence could be obtained, he modestly thanked them for their favour, but declined an office, which his nobility disqualified him from exercising. At this, a single voice out of the crowd exclaimed, *Signior;* and this title was reverberated from every side. Fearful of worse consequences, the actual magistrates urged him to comply with the people, and accept the office of abbot. But Boccanegra, addressing the assembly, declared his readiness to become their abbot, signior, or whatever they would. The cry of signior was now louder than before; while others cried out let him be duke. The latter title was received with greater approbation; and Boccanegra was conducted to the palace, the first duke, or doge of Genoa.*

Subsequent revolutions.

Caprice alone, or an idea of more pomp and dignity, led the populace, we may conjecture, to prefer this title to that of signior; but it produced important and highly beneficial consequences. In all neighbouring cities, an arbitrary government had been already established under their respective signiors; the name was associated with indefinite power; while that of doge had only been taken

* G. Stella. Annal. Genuenses, in Script. Rer. Ital. t. xvii. p. 1072.

by the elective and very limited chief magistrate of another maritime republic. Neither Boccanegra, nor his successors, ever rendered their authority unlimited or hereditary. The constitution of Genoa, from an oppressive aristocracy, became a mixture of the two other forms, with an exclusion of the nobles from power. Those four great families, who had domineered alternately for almost a century, lost their influence at home after the revolution of 1339. Yet, what is remarkable enough, they were still selected in preference for the highest of trusts; their names are still identified with the glory of Genoa; her fleets hardly sailed but under a Doria, a Spinola, or a Grimaldi; such confidence could the republic bestow upon their patriotism, or that of those whom they commanded. Meanwhile two or three new families, a plebeian oligarchy, filled their place in domestic honours; the Adorni, the Fregosi, the Montalti, contended for the ascendant. From their competition ensued revolutions too numerous almost for a separate history; in four years, from 1390 to 1394, the doge was ten times changed; swept away or brought back in the fluctuations of popular tumult. Antoniotto Adorno, four times doge of Genoa, had sought the friendship of Gian Galeazzo Visconti; but that crafty tyrant meditated the subjugation of the republic, and played her factions against one another to render her fall secure. Adorno perceived that there was no hope for ultimate independence, but by making a temporary sacrifice of it. His own power, ambitious as he had been, he

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voluntarily resigned; and placed the republic under the protection or signiory of the king of France. Terms were stipulated, very favourable to her liberties; but with a French garrison once received into the city, they were not always sure of observance.*

Venice.

While Genoa lost even her political independence, Venice became more conspicuous and powerful than before. That famous republic deduces its original, and even its liberty, from an æra beyond the commencement of the middle ages. The Venetians boast of a perpetual emancipation from the yoke of barbarians. From that ignominious servitude some natives, or, as their historians will have it, nobles of Aquileja, and neighbouring towns,† fled to the small cluster of islands that rise amidst the shoals at the mouth of the Brenta. Here they built the town of Rivoalto, the modern Venice, in 421; but their chief settlement was, till the beginning of the ninth century, at Malamocco. A living writer has, in a passage of remarkable eloquence, described the sovereign republic, immoveable upon the bosom of the waters from which her palaces emerge, contemplating the successive tides of continental invasion, the rise and fall of empires, the change of dynasties, the whole moving scene of human revolution; till, in her own turn, the last surviving witness of antiquity, the common link between two periods of civilization, has sub-

* Sismondi, t. vii. p. 237. 367.

† Ebbe principio, says Sanuto haughtily, non da pastori, come ebbe Roma, ma da potenti, e nobili.

mitted to the destroying hand of time.* Some part of this renown must, on a cold-blooded scrutiny, be detracted from Venice. Her independence was, at the best, the fruit of her obscurity. Neglected upon their islands, a people of fishermen might without molestation elect their own magistrates; a very equivocal proof of sovereignty in cities much more considerable than Venice. But both the western and the eastern empire alternately pretended to exercise dominion over her; she was conquered by Pepin, son of Charlemagne, and restored by him, as the chronicles say, to the Greek emperor Nicephorus. There is every appearance that the Venetians had always considered themselves as subject, in a large sense not exclusive of their municipal self-government, to the eastern empire.† And this connexion was not broken, in the early part, at least, of the tenth century. But, for every essential purpose, Venice might long before be deemed an independent state. Her doge

Her dependence on the Greek empire.

* Sismondi, t. i. p. 309.

† Nicephorus stipulates with Charlemagne for his faithful city of Venice, Quæ in devotione imperii illibatæ steterant. Danduli Chronicon, in Muratori. Script. Rer. Ital. t. xii. p. 156. In the tenth century, Constantine Porphyrogenitus, in his book De Administratione Imperii, claims the Venetians as his subjects, though he admits that they had, for peace sake, paid tribute to Pepin and his successors, as kings of Italy. p. 71. I have never seen the famous Squittinio della libertà Veneta, which gave the republic so much offence in the seventeenth century; but a very strong case is made out against their early independence in Giannone's history. t. ii. p. 283. edit. Hain, 1753. Muratori informs us, that so late as 1084, the doge obtained the title of Imperialis Protosevastos from the court of Constantinople; a title which he continued always to use. (Annali d' Italia, ad ann.) But I should lay no stress on this circumstance. The Greek, like the German emperors in modern times, had a mint of specious titles, which passed for ready money over Christendom.

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was not confirmed at Constantinople; she paid no tribute, and lent no assistance in war. Her own navies, in the ninth century, encountered the Normans, the Saracens, and the Sclavonians in the Adriatic sea. Upon the coast of Dalmatia were several Greek cities, which the empire had ceased to protect; and which, like Venice itself, became republics for want of a master. Ragusa was one of these, and, more fortunate than the rest, survived as an independent city till our own age. In return for the assistance of Venice, these little seaports put themselves under her government; the Sclavonian pirates were repressed; and after acquiring, partly by consent, partly by arms, a large tract of maritime territory, the doge took the title of duke of Dalmatia, which is said by Dandolo to have been confirmed at Constantinople. Three or four centuries, however, elapsed, before the republic became secure of these conquests, which were frequently wrested from her by rebellions of the inhabitants, or by her powerful neighbour, the king of Hungary.

Conquest of Dalmatia.

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Her acquisitions in the Levant.

A more important source of Venetian greatness was commerce. In the darkest and most barbarous period, before Genoa, or even Pisa, had entered into mercantile pursuits, Venice carried on an extensive traffic both with the Greek and Saracen regions of the Levant. The crusades enriched and aggrandized Venice more perhaps than any other city. Her splendour may, however, be dated from the taking of Constantinople by the Latins in 1204. In this famous enterprize,

which diverted a great armament destined for the recovery of Jerusalem, the French and Venetian nations were alone engaged; but the former only as private adventurers, the latter with the whole strength of their republic under its doge, Henry Dandolo. Three eighths of the city of Constantinople, and an equal proportion of the provinces, were allotted to them in the partition of the spoil, and the doge took the singular, but accurate title, Duke of three eighths of the Roman empire. Their share was increased by purchases from less opulent crusaders, especially one of much importance, the island of Candia, which they retained till the middle of the seventeenth century. These foreign acquisitions were generally granted out in fief to private Venetian nobles under the supremacy of the republic.* It was thus that the Ionian islands, to adopt the vocabulary of our day, came under the dominion of Venice, and guaranteed that sovereignty which she now began to affect over the Adriatic. Those of the Archipelago were lost in the sixteenth century. This political greatness was sustained by an increasing commerce. No Christian state preserved so considerable an intercourse with the Mohammedans. While Genoa kept the keys of the Black Sea by her colonies of Pera and Caffa, Venice directed her vessels to Acre and Alexandria. These connexions, as is the natural effect of trade, deadened the sense of religious antipathy; and the Vene-

* Sismondi, t. ii. p. 431.

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tians were sometimes charged with obstructing all efforts towards a new crusade, or even any partial attacks upon the Mohammedan nations.

Venetian government.

The earliest form of government at Venice, as we collect from an epistle of Cassiodorus in the sixth century, was by twelve annual tribunes. Perhaps the union of the different islanders was merely federative. However, in 697, they resolved to elect a chief magistrate by name of duke, or, in their dialect, doge of Venice. No councils appear to have limited his power, or represented the national will. The doge was general and judge; he was sometimes permitted to associate his son with him, and thus to prepare the road for hereditary power; his government had all the prerogatives, and, as far as in such a state of manners was possible, the pomp of a monarchy. But he acted in important matters with the concurrence of a general assembly; though from the want of positive restraints his executive government might be considered as nearly absolute. Time, however, demonstrated to the Venetians the imperfections of such a constitution. Limitations were accordingly imposed on the doge in 1032; he was prohibited from associating a son in the government, and obliged to act with the consent of two elected counsellors, and, on important occasions, to call in some of the principal citizens. No other change appears to have taken place till 1172; long after every other Italian city had provided for its liberty by constitutional laws, more or less successful, but always

manifesting a good deal of contrivance and complication. Venice was, however, dissatisfied with her existing institutions. General assemblies were found, in practice, inconvenient and unsatisfactory. Yet some adequate safeguard against a magistrate of indefinite powers was required by freemen. A representative council, as in other republics, justly appeared the best innovation that could be introduced.*

The great council of Venice, as established in 1172, was to consist of four hundred and eighty citizens, equally taken from the six districts of the city, and annually renewed. But the election was not made immediately by the people. Two electors, called tribunes, from each of the six districts, appointed the members of the council by separate nomination. These tribunes, at first, were themselves chosen by the people; so that the intervention of this electoral body did not apparently trespass upon the democratical character of the constitution. But the great council, principally composed of men of high birth, and invested by the law with the appointment of the doge and of all the councils of magistracy, seem, early in the thirteenth century, to have assumed the right of naming their own constituents. Besides ap-

* Sismondi, t. iii. p. 287. As I have never met with the Storia civile Veneta, by Vettor Sandi, in nine vols. 4to., or even Laugier's History of Venice, my reliance has chiefly been placed on M. Sismondi who has made use of Sandi, the latest and probably most accurate historian. To avoid frequent reference, the principal passages in Sismondi relative to the domestic revolutions of Venice are, t. i. p. 323. t. iii. p. 287—300. t. iv. pp. 349—370.

pointing the tribunes, they took upon themselves another privilege; that of confirming or rejecting their successors, before they resigned their functions. These usurpations rendered the annual election almost nugatory; the same members were usually renewed, and though the dignity of counsellor was not yet hereditary, it remained, upon the whole, in the same families. In this transitional state the Venetian government continued during the thirteenth century; the people actually debarred of power, but an hereditary aristocracy not completely or legally confirmed. The right of electing or rather of re-electing the great council was transferred, in 1297, from the tribunes, whose office was abolished, to the council of forty; they ballotted upon the names of the members who already sat; and whoever obtained twelve favouring balls out of forty retained his place. The vacancies occasioned by rejection or death were filled up by a supplemental list formed by three electors, nominated in the great council. But they were expressly prohibited by laws of 1298 and 1300, from inserting the name of any one whose paternal ancestors had not enjoyed the same honour. Thus an exclusive hereditary aristocracy was finally established. And the personal rights of noble descent were rendered complete in 1319, by the abolition of all elective forms. By the constitution of Venice, as it was then settled, every descendant of a member of the great council, on attaining twenty-five years of age, entered as

of right into that body, which of course became unlimited in its numbers.*

But an assembly so numerous as the great council, even before it was thus thrown open to all the nobility, could never have conducted the public affairs with that secrecy and steadiness which were characteristic of Venice; and without an intermediary power between the doge and the patrician multitude, the constitution would have gained nothing in stability to compensate for the loss of popular freedom. The great council had proceeded very soon after its institution to limit the ducal prerogatives. That of exercising criminal justice, a trust of vast importance, was transferred in 1179 to a council of forty members annually chosen. The executive government itself was thought too considerable for the doge without some material limitations. Instead of naming his own assistants or pregadi, he was only to preside in a council of sixty members, to whom the care of the state in all domestic and foreign relations, and the previous deliberation upon proposals submitted to the great council, was confided. This council of pregadi, generally called in later

* These gradual changes between 1297 and 1319 were first made known by Sandi, from whom M. Sismondi has introduced the facts into his own history. I notice this, because all former writers, both ancient and modern, fix the complete and final establishment of the Venetian aristocracy in 1297.

Twenty-five years complete was the statutable age, at which every Venetian noble had a right to take his seat in the great council. But the names of those who had passed the age of twenty were annually put into an urn, and one-fifth drawn out by lot, who were thereupon admitted. On an average, therefore, the age of admission was about twenty-three. Jannotus de Rep. Venet.—Contareni.—Amelot de la Houssaye.

times the senate, was enlarged in the fourteenth century by sixty additional members; and as a great part of the magistrates had also seats in it, the whole number amounted to between two and three hundred. Though the legislative power, properly speaking, remained with the great council, the senate used to impose taxes, and had the exclusive right of making peace and war. It was annually renewed, like almost all other councils at Venice, by the great council. But since even this body was too numerous for the preliminary discussion of business, six counsellors, forming, along with the doge, the signiory, or visible representative of the republic, were empowered to dispatch orders, to correspond with ambassadors, to treat with foreign states, to convoke and preside in the councils, and perform other duties of an administration. In part of these they were obliged to act with the concurrence of what was termed the college, comprizing, besides themselves, certain select counsellors, from different constituted authorities.*

It might be imagined, that a dignity so shorn of its lustre, as that of doge, would not excite an overweening ambition. But the Venetians were still jealous of extinguished power; and while their constitution was yet immature, the great

* The college of Savj consisted of sixteen persons: and it possessed the *initiative* in all public measures that required the assent of the senate. For no single senator, much less any noble of the great council, could propose any thing for debate. The Signiory had the same privilege. Thus the virtual powers even of the senate were far more limited than they appear at first sight; and no possibility remained of innovation in the fundamental principles of the constitution.

council planned new methods of restricting their chief magistrate. An oath was taken by the doge on his election, so comprehensive as to embrace every possible check upon undue influence. He was bound not to correspond with foreign states, or to open their letters, except in the presence of the signiory; to acquire no property beyond the Venetian dominions, and to resign what he might already possess; to interpose, directly or indirectly, in no judicial process, and not to permit any citizen to use tokens of subjection in saluting him. As a further security they devised a remarkable complicated mode of supplying the vacancy of his office. Election by open suffrage is always liable to tumult or corruption; nor does the method of secret ballot, while it prevents the one, afford in practice any adequate security against the other. Election by lot incurs the risk of placing incapable persons in situations of arduous trust. The Venetian scheme was intended to combine the two modes without their evils, by leaving the absolute choice of their doge to electors taken by lot. It was presumed, that, among a competent number of persons, though taken promiscuously, good sense and right principles would gain such an ascendancy, as to prevent any flagrantly improper nomination, if undue influence could be excluded. For this purpose, the ballot was rendered exceedingly complicated, that no possible ingenuity or stratagem might ascertain the electoral body before the last moment. A single lottery, if fairly conducted, is certainly sufficient

for this end. At Venice, as many balls as there were members of the great council present, were placed in an urn. Thirty of these were gilt. The holders of gilt balls were reduced by a second ballot to nine. The nine elected forty, whom lot reduced to twelve. The twelve chose twenty-five by separate nomination.* The twenty-five were reduced by lot to nine; and each of the nine chose five. These forty-five were reduced to eleven as before; the eleven elected forty-one, who were the ultimate voters for a doge. This intricacy appears useless, and consequently absurd; but the original principle of a Venetian election (for something of the same kind was applied to all their councils and magistrates) may not always be unworthy of imitation. In one of our best modern statutes, that for regulating the trials of contested elections, we have seen this mixture of chance and selection very happily introduced.

An hereditary prince could never have remained quiet in such trammels as were imposed upon the doge of Venice. But early prejudice accustoms men to consider restraint, even upon themselves, as advantageous; and the limitations of ducal power appeared to every Venetian as fundamental as the great laws of the English constitution do to ourselves. Many doges of Venice, especially in the middle ages, were considerable men; but they were content with the functions assigned to them,

* Amelot de la Houssaye asserts this: but, according to Contareni, the method was by ballot.

which, if they could avoid the tantalizing comparison of sovereign princes, were enough for the ambition of republicans. For life the chief magistrates of their country, her noble citizens for ever, they might thank her in their own name for what she gave, and in that of their posterity for what she withheld. Once only a doge of Venice was tempted to betray the freedom of the republic. Marin Falieri, a man far advanced in life, engaged, from some petty resentment, in a wild intrigue to overturn the government. The conspiracy was soon discovered, and the doge avowed his guilt. An aristocracy so firm and so severe did not hesitate to order his execution in the ducal palace. 1355

For some years after what was called the closing of the great council, or the law of 1296, which excluded all but the families actually in possession, a good deal of discontent shewed itself among the commonalty. Several commotions took place about the beginning of the fourteenth century, with the object of restoring a more popular regimen. Upon the suppression of the last, in 1310, the aristocracy sacrificed their own individual freedom along with that of the people, to the preservation of an imaginary privilege. They established the famous council of ten, that most remarkable part of the Venetian constitution. This council, it should be observed, consisted in fact of seventeen; comprizing the signiory, or the doge and his six counsellors, as well as the ten properly so called. The council of ten had by usage, if not by right, a controuling and dictatorial power over

the senate, and other magistrates; rescinding their decisions, and treating separately with foreign princes. Their vast influence strengthened the executive government, of which they formed a part, and gave a vigour to its movements, which the jealousy of the councils would possibly have impeded. But they are chiefly known as an arbitrary and inquisitorial tribunal, the standing tyranny of Venice. Excluding the old council of forty, a regular court of criminal judicature, not only from the investigation of treasonable charges, but of several other crimes of magnitude, they inquired, they judged, they punished, according to what they called reason of state. The public eye never penetrated the mystery of their proceedings; the accused was sometimes not heard, never confronted with witnesses; the condemnation was secret as the inquiry, the punishment undivulged like both.* The terrible and odious machinery of a police, the insidious spy, the stipendiary informer, unknown to the carelessness of feudal governments, found their natural soil in the republic of Venice. Tumultuous assemblies were scarcely possible in so peculiar a city; and private conspiracies never failed to be detected by the vigilance of the council of ten. Compared with the Tuscan republics, the tranquillity of Venice is truly striking. The names of Guelf and Ghibelin hardly raised any emotion in her streets, though the government was consi-

* Illum etiam morem observant, ne reum, cum de eo judicium laturi sunt, in collegium admittant, neque cognitorem, aut oratorem quempiam, qui ejus causam agat. Contarem de Rep. Venet.

dered in the first part of the fourteenth century as rather inclined towards the latter party.* But the wildest excesses of faction are less dishonouring than the stillness and moral degradation of servitude.†

It was a very common theme with political writers, till about the beginning of the last century, when Venice fell almost into oblivion, to descant upon the wisdom of this government. And indeed if the preservation of ancient institutions be, as some appear to consider it, not a means, but an end, and an end for which the rights of man and laws of God may at any time be set aside, we must acknowledge that it was a wisely constructed system. Formed to compress the two opposite forces, from which resistance might be expected, it kept both the doge and the people in perfect subordination. Even the coalition of an executive magistrate with the multitude, so fatal to most aristocracies, never endangered that of Venice. It is

* Villani several times speaks of the Venetians as regular Ghibelins. l. ix. c. 2. l. x. c. 89. &c. But this is put much too strongly; though their government may have had a slight bias towards that faction, they were in reality neutral, and far enough removed from any domestic feuds upon that score.

† By the modern law of Venice, a nobleman could not engage in trade without derogating from his rank; but I am not aware whether so absurd a restriction existed in the fourteenth and fifteenth centuries. I do not find this peculiarity observed by Jannotti and Contareni, the oldest writers on the Venetian government. It is noticed by Amelot de la Houssaye, who tells us also, that the nobility evaded the law by secret partnership with the privileged merchants, or cittadini, who formed a separate class at Venice. This was the custom in modern times. But I have never understood the principle, or common sense, of such a restriction, especially combined with that other fundamental law, which disqualified a Venetian nobleman from possessing a landed estate on the terra firma of the republic. The latter, however, did not extend, as I have been informed, to Dalmatia, or the Ionian islands.

most remarkable, that a part of the constitution, which destroyed every man's security, and incurred general hatred, was still maintained by a sense of its necessity. The council of ten, annually renewed, might annually have been annihilated. The great council had only to withhold their suffrages from the new candidates, and the tyranny expired of itself. This was several times attempted (I speak now of more modern ages); but the nobles, though detesting the council of ten, never steadily persevered in refusing to re-elect it. It was, in fact, become essential to Venice. So great were the vices of her constitution, that she could not endure their remedies. If the council of ten had been abolished at any time since the fifteenth century, if the removal of that jealous despotism had given scope to the corruption of a poor and debased aristocracy, to the licence of a people unworthy of freedom, the republic would have soon lost her territorial possessions, if not her own independence. If indeed it be true, as reported, that during the last hundred years this formidable tribunal had sensibly relaxed its vigilance, if the Venetian government had become less tyrannical through sloth, or decline of national spirit, our conjecture will have acquired the confirmation of experience. Experience has recently shown, that a worse calamity than domestic tyranny might befall the queen of the Adriatic. In the place of St. Mark, among the monuments of extinguished greatness, a traveller may regret to think that an insolent German soldiery has

replaced even the senators of Venice. Her ancient liberty, her bright and romantic career of glory in countries so dear to the imagination, her magnanimous defence in the war of Chioggia, a few thinly scattered names of illustrious men, will rise upon his mind, and mingle with his indignation at the treachery which robbed her of her independence. But if he has learned the true attributes of wisdom in civil policy, he will not easily prostitute that word to a constitution formed without reference to property or to population, that vested sovereign power partly in a body of impoverished nobles, partly in an overruling despotism; or to a practical system of government that made vice the ally of tyranny, and sought impunity for its own assassinations by encouraging dissoluteness of private life. Perhaps too the wisdom so often imputed to the senate in its foreign policy, has been greatly exaggerated. The balance of power established in Europe, and above all in Italy, maintained for the two last centuries states of small intrinsic resources, without any efforts of their own. In the ultimate crisis, at least, of Venetian liberty, that solemn mockery of statesmanship was exhibited to contempt; too blind to avert danger, too cowardly to withstand it, the most ancient government of Europe made not an instant's resistance; the peasants of Underwald died upon their mountains; the nobles of Venice clung only to their lives.*

* See in the Edinburgh Review, vol. xii. p. 379. an account of a book, which is, perhaps, little known, though interesting to the history of our own age: a collection of documents illustrating the

Territorial acquisitions of Venice.

Until almost the middle of the fourteenth century, Venice had been content without any territorial possessions in Italy; unless we reckon a very narrow strip of sea coast, bordering on her lagunes, called the Dogato. Neutral in the great contests between the church and the empire, between the free cities and their sovereign, she was respected by both parties, while neither ventured to claim her as an ally. But the rapid progress of Mastino della Scala, lord of Verona, with some particular injuries, led the senate to form a league with Florence against him. Villani mentions it as a singular honour for his country to have become the confederate of the Venetians, "who, for their great excellence and power, had never allied themselves with any state or prince, except at their ancient conquest of Constantinople and Romania."* The result of this combination was to annex the district of Treviso to the Venetian dominions. But they made no further conquests in

fall of the republic of Venice. The article is well written, and, I presume, contains a faithful account of the work; the author of which, Signor Barzoni, is respected as a patriotic writer in Italy.

Every one, who has been at Venice, must have been struck with the magnificent tombs of the doges, most of them in the church of S. Giovanni e Paolo, in which the republic seems to identify herself with her chief magistrate, and to make the decorations and inscriptions on his monument a record of her own wealth and glory. In the church of the Scalzi, on a single square stone in the pavement, a very different epitaph from that of Loredano or Foscari may be read, MANINI CINERES. These two words mark the place of interment of Manini, the last doge, whose own pusillanimity, or that of those around him, joined to the calamity of the times, caused him to survive his own dignity, and the liberties of Venice. To my feelings this inscription was more striking than the famous *Locus Marini Falieri, pro criminibus decapitati*, upon a vacant canvass among the pictures of the doges in the hall of the Great Council.

* L. xi. c. 49.

that age. On the contrary they lost Treviso in the unfortunate war of Chioggia, and did not regain it till 1389. Nor did they seriously attempt to withstand the progress of Gian Galeazzo Visconti; who, after overthrowing the family of Scala, stretched almost to the Adriatic, and altogether subverted for a time the balance of power in Lombardy.

State of Lombardy at the beginning of the fifteenth century.

But upon the death of this prince in 1404, a remarkable crisis took place in that country. He left two sons, Giovanni Maria, and Filippo Maria, both young, and under the care of a mother, who was little fitted for her situation. Through her misconduct, and the selfish ambition of some military leaders, who had commanded Gian Galeazzo's mercenaries, that extensive dominion was soon broken into fragments. Bergamo, Como, Lodi, Cremona, and other cities revolted, submitting themselves in general to the families of their former princes, the earlier race of usurpers, who had for nearly a century been crushed by the Visconti. A Guelf faction revived, after the name had long been proscribed in Lombardy. Francesco de Carrara, lord of Padua, availed himself of this revolution to get possession of Verona, and seemed likely to unite all the cities beyond the Adige. No family was so odious to the Venetians as that of Carrara. Though they had seemed indifferent to the more real danger in Gian Galeazzo's lifetime, they took up arms against this inferior enemy. Both Padua and Verona were reduced, and the duke of Milan ceding Vicenza, the re-

public of Venice came suddenly into the possession of an extensive territory. Francesco da Carrara, who had surrendered in his capital, was put to death in prison at Venice; a cruelty perfectly characteristic of that government, and which would hardly have been avowedly perpetrated, even in the fifteenth century, by any other state in Europe.

Notwithstanding the deranged condition of the Milanese, no further attempts were made by the senate of Venice for twenty years. They had not yet acquired that decided love of war and conquest, which soon began to influence them against all the rules of their ancient policy. There were still left some wary statesmen of the old school, to check ambitious designs. Sanuto has preserved an interesting account of the wealth and commerce of Venice in those days. This is thrown into the mouth of the doge Mocenigo, whom he represents as dissuading his country, with his dying words, from undertaking a war against Milan. "Through peace our city has every year," he said, "ten millions of ducats employed as mercantile capital in different parts of the world; the annual profit of our traders upon this sum amounts to four millions. Our housing is valued at 7,000,000 ducats; its annual rental at 500,000. Three thousand merchant ships carry on our trade; forty-three gallies, and three hundred smaller vessels, manned by 19,000 sailors, secure our naval power. Our mint has coined 1,000,000 ducats within the year. From the Milanese do-

minions alone we draw 1,000,000 ducats in coin, and the value of 900,000 more in cloths; our profit upon this traffic may be reckoned at 600,000 ducats. Proceeding as you have done to acquire this wealth, you will become masters of all the gold in Christendom; but war, and especially unjust war, will lead infallibly to ruin. Already you have spent 900,000 ducats in the acquisition of Verona and Padua; yet the expense of protecting these places absorbs all the revenue which they yield. You have many among you, men of probity and experience; chuse one of these to succeed me; but beware of Francesco Foscari. If he is doge, you will soon have war, and war will bring poverty and loss of honour."* Mocenigo died, and Foscari became doge: the prophecies of the former were neglected; and it cannot wholly be affirmed that they were fulfilled. Yet Venice is described, by a writer thirty years later, as somewhat impaired in opulence by her long warfare with the dukes of Milan.

Wars of Milan and Venice.

The latter had recovered a great part of their dominions as rapidly as they had lost them. Giovanni Maria, the elder brother, a monster of guilt even among the Visconti, having been assassinated, Filippo Maria assumed the government of Milan and Pavia, almost his only possessions. But though weak and unwarlike himself, he had

* Sanuto, Vite di Duchi di Venezia, in Script. Rer. Ital. t. xxii. p. 958. Mocenigo's harangue is very long in Sanuto: I have endeavoured to preserve the substance.

the good fortune to employ Carmagnola, one of the greatest generals of that military age. Most of the revolted cities were tired of their new masters, and their inclinations conspiring with Carmagnola's eminent talents and activity, the house of Visconti re-assumed its former ascendancy from the Sessia to the Adige. Its fortunes might have been still more prosperous, if Filippo Maria had not rashly as well as ungratefully offended Carmagnola. That great captain retired to Venice, and inflamed a disposition towards war which the Florentines and the duke of Savoy had already excited. The Venetians had previously gained some important advantages in another quarter, by reducing the country of Friuli, with part of Istria, which had for many centuries depended on the temporal authority of a neighbouring prelate, the patriarch of Aquileia. They entered into this new alliance. No undertaking of the republic had been more successful. Carmagnola led on their armies, and in about two years, Venice acquired Brescia and Bergamo, and
1426 extended her boundary to the river Adda, which she was destined never to pass.

Change in the military system.

Such conquests could only be made by a city so peculiarly maritime as Venice, through the help of mercenary troops. But in employing them she merely conformed to a fashion, which states to whom it was less indispensable had long since established. A great revolution had taken place in the system of military service, through most parts of Europe, but especially in Italy. During

the twelfth and thirteenth centuries, whether the Italian cities were engaged in their contest with the emperors, or in less arduous and general hostilities among each other, they seem to have poured out almost their whole population, as an armed and loosely organized militia. A single city, with its adjacent district, sometimes brought twenty or thirty thousand men into the field. Every man, according to the trade he practised, or quarter of the city wherein he dwelt, knew his own banner, and the captain he was to obey.* In battle, the carroccio formed one common rallying point, the pivot of every movement. This was a chariot, or rather waggon, painted with vermilion, and bearing the city standard elevated upon it. That of Milan required four pair of oxen to drag it forward.† To defend this sacred emblem of his country, which Muratori compares to the ark of the covenant among the Jews, was the constant object, that, giving a sort of concentration and uniformity to the army, supplied in some degree the want of more regular tactics. This militia was of course principally composed of infantry. At the famous battle of the Arbia, in 1260, the Guelf Florentines had thirty thousand foot, and three thousand horse;‡ and the usual proportion

* Muratori, Antiq. Ital. Diss. 26. Denina, Rivoluzioni d'Italia, l. xii. c. 4.

† The carroccio was invented by Eribert, a celebrated archbishop of Milan, about 1039. Annali di Murat. Antiq. Ital. Diss. 26. The carroccio of Milan was taken by Frederic II., in 1237, and sent to Rome. Parma and Cremona lost their carroccios to each other, and exchanged them some years afterwards with great exultation. In the fourteenth century this custom had gone into disuse. Id. ibid. Denina, l. xii. c. 4.

‡ Villani, l. vi. c. 79.

was five, six, or ten, to one. Gentlemen, however, were always mounted; and the superiority of a heavy cavalry must have been prodigiously great over an undisciplined and ill-armed populace. In the thirteenth and following centuries, armies seem to have been considered as formidable, nearly in proportion to the number of men at arms, or lancers. A charge of cavalry was irresistible; battles were continually won by inferior numbers, and vast slaughter was made among the fugitives.*

Employment of foreign troops.

As the comparative inefficiency of foot soldiers became evident, a greater proportion of cavalry was employed, and armies, though better equipped and disciplined, were less numerous. This we find in the early part of the fourteenth century. The main point for a state at war was to obtain a sufficient force of men at arms. As few Italian cities could muster a large body of cavalry from their own population, the obvious resource was to hire mercenary troops. This had been practised in some instances much earlier. The city of Genoa took the count of Savoy into pay with two hundred horse in 1225.† Florence retained five hundred French lances in 1282.‡ But it became

* Sismondi, t. iii. p. 263. &c. has some judicious observations on this subject.

† Muratori, Dissert. 26.

‡ Ammirato, Ist. Fiorent. p. 159. the same was done in 1297. p. 200. A *lance*, in the technical language of those ages, included the lighter cavalry attached to the man at arms, as well as himself. In France, the full complement of a lance (lance fournie) was five or six horses; thus the 1,500 lances, who composed the original companies of ordonnance raised by Charles VII., amounted to nine thousand cavalry. But in Italy, the number was smaller. We read

much more general in the fourteenth century, chiefly after the expedition of the emperor Henry VII., in 1310. Many German soldiers of fortune, remaining in Italy upon this occasion, engaged in the service of Milan, Florence, or some other state. The subsequent expeditions of Louis of Bavaria in 1326, and of John king of Bohemia, in 1331, brought a fresh accession of adventurers from the same country. Others again came from France, and some from Hungary. All preferred to continue in the richest country and finest climate of Europe, where their services were anxiously solicited, and abundantly repaid. An unfortunate prejudice in favour of strangers prevailed among the Italians of that age. They ceded to them, one knows not why, certainly without having been vanquished, the palm of military skill and valour. The word Transalpine (Oltramontani) is frequently applied to hired cavalry by the two Villani, as an epithet of excellence.

The experience of every fresh campaign now told more and more against the ordinary militia. It has been usual for modern writers to lament the degeneracy of martial spirit among the Italians of that age. But the contest was too unequal between an absolutely invulnerable body of cuirassiers, and an infantry of peasants or citizens. The bravest men have little appetite for receiving

frequently of barbuti, which are defined, lanze de due cavalli. Corio, p. 437. Lances of three horses were introduced about the middle of the fourteenth century. Id. p. 466.

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wounds and death, without the hope of inflicting any in return. The parochial militia of France had proved equally unserviceable; though, as the life of a French peasant was of much less account in the eyes of his government than that of an Italian citizen, they were still led forward like sheep to the slaughter against the disciplined forces of Edward III. The cavalry had about this time laid aside the hauberk, or coat of mail, their ancient distinction from the unprotected populace; which, though incapable of being cut through by the sabre, afforded no defence against the pointed sword introduced in the thirteenth century,* nor repelled the impulse of a lance, or the crushing blow of a battle-axe. Plate-armour was substituted in its place; and the man at arms, cased in entire steel, the several pieces firmly rivetted, and proof against every stroke, his charger protected on the face, chest and shoulders, or, as it was called, barded with plates of steel, fought with a security of success, against enemies inferior perhaps only in these adventitious sources of courage to himself.†

Citizens ex-

Nor was the new system of conducting hostili-

* Muratori, ad ann. 1226.

† The earliest plate armour, engraved in Montfaucon's Monumens de la Monarchie Française, t. ii. is of the reign of Philip the Long, about 1315; but it does not appear generally till that of Philip of Valois, or even later. Before the complete harness of steel was adopted, plated caps were sometimes worn on the knees and elbows, and even greaves on the legs. This is represented in a statue of Charles I. king of Naples, who died in 1285. Possibly the statue may not be quite so ancient. Montfaucon, passim. Daniel, Hist. de la Milice Française, p. 395.

ties less inconvenient to the citizens than the tactics of a battle. Instead of rapid and predatory invasions, terminated instantly by a single action, and not extending more than a few days' march from the soldier's home, the more skilful combinations usual in the fourteenth century frequently protracted an indecisive contest for a whole summer.* As wealth and civilization made evident the advantages of agricultural and mercantile industry, this loss of productive labour could no longer be endured. Azzo Visconti, who died in 1339, dispensed with the personal service of his Milanese subjects. "Another of his laws," says Galvaneo Fiamma, "was, that the people should not go to war, but remain at home for their own business. For they had hitherto been kept with much danger and expense every year, and especially in time of harvest and vintage, when princes are wont to go to war, in besieging cities, and incurred numberless losses, and chiefly on account of the long time that they were so detained."† This law of Azzo Visconti, taken separately, might be ascribed to the usual policy of an absolute government. But we find a similar innovation not long afterwards at Florence. In the war carried on by that republic against Giovanni Visconti in 1351, the younger Villani informs us that "the useless and mischievous personal service of

ceased from service.

* This tedious warfare *à la Fabius* is called by Villani, guerra guereggiata, l. viii. c. 49. at least I can annex no other meaning to the expression.

† Muratori, Antiquit. Ital. Dissert. 26.

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the inhabitants of the district was commuted into a money payment."* This change indeed was necessarily accompanied by a vast increase of taxation. The Italian states, republics as well as principalities, levied very heavy contributions. Mastino della Scala had a revenue of 700,000 florins, more, says John Villani, than the king of any European country, except France, possesses.† Yet this arose from only nine cities of Lombardy. Considered with reference to economy, almost any taxes must be a cheap commutation for personal service. But economy may be regarded too exclusively, and can never counterbalance that degradation of a national character, which proceeds from intrusting the public defence to foreigners.

Companies of adventure.

It could hardly be expected, that stipendiary troops, chiefly composed of Germans, would conduct themselves without insolence and contempt of the effeminacy which courted their services. Indifferent to the cause they supported, the highest pay and the richest plunder were their constant motives. As Italy was generally the theatre of war in some of her numerous states, a soldier of fortune, with his lance and charger for his inheritance, passed from one service to another without regret, and without discredit. But if peace hap-

* Matt. Villani, p. 135.

† L. xi. c. 45. I cannot imagine why M. Sismondi asserts, t. iv. p. 432. that the lords of cities in Lombardy did not venture to augment the taxes imposed while they had been free. Complaints of heavy taxation are certainly often made against the Visconti, and other tyrants in the fourteenth century.

pened to be pretty universal, he might be thrown out of his only occupation, and reduced to a very inferior condition, in a country of which he was not a native. It naturally occurred to men of their feelings, that if money and honour could only be had while they retained their arms, it was their own fault if they ever relinquished them. Upon this principle they first acted in 1343, when the republic of Pisa disbanded a large body of German cavalry which had been employed in a war with Florence.* A partizan, whom the Italians call the Duke Guarnieri, engaged these dissatisfied mercenaries to remain united under his command. His plan was to levy contributions on all countries which he entered with his company, without aiming at any conquests. No Italian army, he well knew, could be raised to oppose him; and he trusted that other mercenaries would not be ready to fight against men who had devised a scheme so advantageous to the profession. This was the first of the companies of adventure, which continued for many years to be the scourge and disgrace of Italy. Guarnieri, after some time, withdrew his troops, saturated with plunder, into Germany; but he served in the invasion of Naples by Louis, king of Hungary, in 1348, and, forming

* Sismondi, t. v. p. 380. The dangerous aspect which these German mercenaries might assume, had appeared four years before, when Lodrisio, one of the Visconti, having quarrelled with the lord of Milan, led a large body of troops who had just been disbanded against the city. After some desperate battles, the mercenaries were defeated, and Lodrisio taken. t. v. p. 278. In this instance, however, they acted for another; Guarnieri was the first who taught them to preserve the impartiality of general robbers.

a new company, ravaged the ecclesiastical state. A still more formidable band of disciplined robbers appeared in 1353, under the command of Fra Moriale, and afterwards of Conrad Lando. This was denominated the Great Company, and consisted of several thousand regular troops, besides a multitude of half-armed ruffians, who assisted as spies, pioneers and plunderers. The rich cities of Tuscany and Romagna paid large sums, that the great company, which was perpetually in motion, might not march through their territory. Florence alone magnanimously resolved not to offer this ignominious tribute. Upon two occasions, once in 1358, and still more conspicuously the next year, she refused either to give a passage to the company, or to redeem herself by money; and in each instance the German robbers were compelled to retire. At this time, they consisted of five thousand cuirassiers, and their whole body was not less than twenty thousand men; a terrible proof of the evils which an erroneous system had entailed upon Italy. Nor were they repulsed on this occasion by the actual exertions of Florence. The courage of that republic was in her counsels, not in her arms; the resistance made to Lando's demand was a burst of national feeling, and rather against the advice of the leading Florentines;* but the army employed was entirely composed of mercenary troops, and probably for the greater part of foreigners.

Sir John Hawkwood.

None of the foreign partizans, who entered into

* Matt. Villani, p. 537.

the service of Italian states, acquired such renown in that career, as an Englishman, whom contemporary writers call Aucud or Agutus, but to whom we may restore his national appellation of Sir John Hawkwood. This very eminent man had served in the war of Edward III., and obtained his knighthood from that sovereign, though originally, if we may trust common fame, bred to the trade of a tailor. After the peace of Bretigni, France was ravaged by the disbanded troops, whose devastations Edward was accused, perhaps unjustly, of secretly instigating. A large body of these, under the name of the White Company, passed into the service of the Marquis of Montferrat. They were some time afterwards employed by the Pisans against Florence; and during this latter war, Hawkwood appears as their commander. For thirty years he was continually engaged in the service of the Visconti, of the Pope, or of the Florentines, to whom he devoted himself for the latter part of his life, with more fidelity and steadiness than he had shewn in his first campaigns. The republic testified her gratitude by a public funeral, and by a monument which, I believe, is still extant.

Want of military science before his time.

The name of Sir John Hawkwood is worthy to be remembered, as that of the first distinguished commander who had appeared in Europe, since the destruction of the Roman empire. It would be absurd to suppose that any of the constituent elements of military genius which nature furnishes to energetic characters were wanting to the leaders of a barbarian or feudal army; untroubled perspi-

cacity in confusion, firm decision, rapid execution, providence against attack, fertility of resource and stratagem. These are in quality as much required from the chief of an Indian tribe, as from the accomplished commander. But we do not find them in any instance so consummated by habitual skill, as to challenge the name of generalship. No one at least occurs to me, previously to the middle of the fourteenth century, to whom history has unequivocally assigned that character. It is very rarely that we find even the order of battle specially noticed. The monks, indeed, our only chroniclers, were poor judges of martial excellence; yet, as war is the main topic of all annals, we could hardly remain ignorant of any distinguished skill in its operations. This neglect of military science certainly did not proceed from any predilection for the arts of peace. It arose out of the general manners of society, and out of the nature and composition of armies in the middle ages. The insubordinate spirit of feudal tenants, and the emulous equality of chivalry, were alike hostile to that gradation of rank, that punctual observance of irksome duties, that prompt obedience to a supreme command, through which a single soul is infused into the active mass, and the rays of individual merit converge to the head of the general.

In the fourteenth century, we begin to perceive something of a more scientific character in military proceedings, and historians for the first time discover that success does not entirely depend upon intrepidity and physical prowess. The victory of

Muhldorf over the Austrian princes in 1322, that decided a civil war in the empire, is ascribed to the ability of the Bavarian commander.* Many distinguished officers were formed in the school of Edward III. Yet their excellencies were perhaps rather those of active partizans than of experienced generals. Their successes are still due rather to daring enthusiasm, than to wary and calculating combination. Like inexpert chess players, they surprize us by happy sallies against rule, or display their talents in rescuing themselves from the consequence of their own mistakes. Thus the admirable arrangements of the Black Prince at Poitiers hardly redeem the temerity which placed him in a situation where the egregious folly of his adversary alone could have permitted him to triumph. Hawkwood therefore appears to me the first real general of modern times; the earliest master, however imperfect, in the science of Turenne and Wellington. Every contemporary Italian historian speaks with admiration of his skillful tactics in battle, his stratagems, his well-conducted retreats. Praise of this description, as I have observed, is hardly bestowed, certainly not so continually, on any former captain.

School of Italian generals.

Hawkwood was not only the greatest but the last of the foreign condottieri, or captains of mercenary bands. While he was yet living, a new military school had been formed in Italy, which not

* Struvius, Corpus Hist. German. p. 585. Schwepperman, the Bavarian general, is called by a contemporary writer, clarus militari scientâ vir.

only superseded, but eclipsed all the strangers. This important reform was ascribed to Alberic di Barbiano, lord of some petty territories near Bologna. He formed a company altogether of Italians about the year 1379. It is not to be supposed that natives of Italy had before been absolutely excluded from service. We find several Italians, such as the Malatesta family, lords of Rimini, and the Rossi of Parma, commanding the armies of Florence much earlier. But this was the first trading company, if I may borrow the analogy, the first regular body of Italian mercenaries, attached only to their commander, without any consideration of party, like the Germans and English of Lando and Hawkwood. Alberic di Barbiano, though himself no doubt a man of military talents, is principally distinguished by the school of great generals, which the company of St. George under his command produced, and which may be deduced, by regular succession, to the sixteenth century. The first in order of time, and immediate contemporaries of Barbiano, were Jacopo Verme, Facino Cane, and Ottobon Terzo. Among an intelligent and educated people, little inclined to servile imitation, the military art made great progress. The most eminent condottieri being divided, in general, between belligerents, each of them had his genius excited and kept in tension by that of a rival in glory. Every resource of science as well as experience, every improvement in tactical arrangements and the use of arms, were required to obtain an advantage over such

equal enemies. In the first year of the fifteenth century, the Italians brought their newly acquired superiority to a test. The emperor Robert, in alliance with Florence, invaded Gian Galeazzo's dominions with a considerable army. From old reputation, which so frequently survives the intrinsic qualities upon which it was founded, an impression appears to have been excited in Italy, that the native troops were still unequal to meet the charge of German cuirassiers. The duke of Milan gave orders to his general, Jacopo Verme, to avoid a combat. But that able leader was aware of a great relative change in the two armies. The Germans had neglected to improve their discipline; their arms were less easily wielded, their horses less obedient to the bit. A single skirmish was enough to open their eyes; they found themselves decidedly inferior; and having engaged in the war with the expectation of easy success, were readily disheartened.* This victory, or rather this decisive proof that victory might be atchieved, set Italy at rest for almost a century from any apprehensions on the side of her ancient masters.

Whatever evils might be derived, and they were not trifling, from the employment of foreign or native mercenaries, it was impossible to discontinue the system without general consent; and too many states found their own advantage in it for such an agreement. The condottieri were indeed

* Sismondi, t. vii. p. 439.

all notorious for contempt of engagements. Their rapacity was equal to their bad faith. Besides an enormous pay, for every private cuirassier received much more in value than a subaltern officer at present, they exacted gratifications for every success.* But every thing was endured by ambitious governments, who wanted their aid. Florence and Venice were the two states, which owed most to the companies of adventure. The one loved war without its perils; the other could never have obtained an inch of territory with a population of sailors. But they were both almost inexhaustibly rich by commercial industry; and, as the surest pay-masters, were best served by those they employed. The Visconti might perhaps have extended their conquests over Lombardy with the militia of Milan; but without a Jacopo del Verme or a Carmagnola, the banner of St. Mark would never have floated at Verona and Bergamo.

Defensive arms of that age.

These Italian armies of the fifteenth century have been remarked for one striking peculiarity. War has never been conducted at so little personal hazard to the soldier. Combats frequently occur in the annals of that age, wherein success, though

* Paga doppia, e mese compiuto, of which we frequently read, sometimes granted improvidently, and more often demanded unreasonably. The first speaks for itself; the second was the reckoning a month's service as completed when it was begun, in calculating their pay. Matt. Villani, p. 62. Sismondi, t. v. p. 412.

Gian Galeazzo Visconti promised constant half pay to the condottieri, whom he disbanded in 1396. This perhaps is the first instance of half pay. Sismondi, t. vii. p. 379.

warmly contested, cost very few lives even to the vanquished.* This innocence of blood, which some historians turn into ridicule, was no doubt owing in a great degree to the rapacity of the companies of adventure, who, in expectation of enriching themselves by the ransom of prisoners, were anxious to save their lives. Much of the humanity of modern warfare was originally due to this motive. But it was rendered more practicable by the nature of their arms. For once, and for once only in the history of mankind, the art of defence had outstripped that of destruction. In a charge of lancers many fell, unhorsed by the shock, and might be suffocated or bruised to death by the pressure of their own armour; but the

* Instances of this are very frequent. Thus at the action of Zagonara, in 1423, but three persons, according to Machiavel, lost their lives, and those by suffocation in the mud. Ist. Fiorent, l. iv. At that of Molinella in 1467, he says, that no one was killed. l. vii. Ammirato reproves him for this, as all the authors of the time represent it to have been sanguinary, (t. ii. p. 102.) and insinuates that Machiavel ridicules the inoffensiveness of those armies more than it deserves, schernendo, come egli suol far, quella milizia. Certainly some few battles of the fifteenth century were not only obstinately contested, but attended with considerable loss. Sismondi, t. x. p. 126. 137. But, in general, the slaughter must appear very trifling. Ammirato himself says, that in an action between the Neapolitan and papal troops in 1486, which lasted all day, not only no one was killed, but it is not recorded that any one was wounded. Roscoe's Lorenzo de' Medici, vol. ii. p. 37. Guicciardini's general testimony to the character of these combats is unequivocal. He speaks of the battle of Fornova between the confederates of Lombardy and the army of Charles VIII. returning from Naples in 1495, as very remarkable on account of the slaughter, which amounted on the Italian side to 3000 men: perchè fù la prima, che da lunghissimo tempo in quà si combattesse con uccisione e con sangue in Italia, perchè innanzi à questa morivano pochissimi uomini in un fatto d'arme. l. ii. p. 175.

lance's point could not penetrate the breast-plate; the sword fell harmless upon the helmet, the conqueror, in the first impulse of passion, could not assail any vital part of a prostrate but not exposed enemy. Still less was to be dreaded from the archers or cross-bowmen who composed a large part of the infantry. The bow indeed, as drawn by an English foot-soldier, was the most formidable of arms before the invention of gunpowder. That ancient weapon, though not perhaps common among the Northern nations, nor for several centuries after their settlement, was occasionally in use before the crusades. William employed archers in the battle of Hastings.* Intercourse with the east, its natural soil, during the twelfth and thirteenth ages, rendered the bow better known. But the Europeans improved on the eastern method of confining its use to cavalry. By employing infantry as archers, they gained increased size, more steady position, and surer aim for the bow. Much, however, depended on the strength and skill of the archer. It was a peculiarly English weapon, and none of the other principal nations adopted it so generally, or so successfully. The cross-bow, which brought the strong and weak to a level, was more in favour upon the continent. This instrument is said by

* Pedites in fronte locavit, sagittis armatos et balistis, item pedites in ordine secundo firmiores et loricatos, ultimo turmas equitum. Gul. Pictaviensis, (in Du Chesne,) p. 201. Several archers are represented in the tapestry of Bayeux.

some writers to have been introduced after the first crusade, in the reign of Louis the Fat.* But, if we may trust William of Poitou, it was employed, as well as the long bow, at the battle of Hastings. Several of the popes prohibited it as a treacherous weapon; and the restriction was so far regarded that, in the time of Philip Augustus, its use is said to have been unknown in France.† By degrees it became more general; and cross-bowmen were considered as a very necessary part of a well-organized army. But both the arrow and the quarrel glanced away from plate-armour, such as it became in the fifteenth century, impervious in every point, except when the visor was raised from the face, or some part of the body accidentally exposed. The horse indeed was less completely protected.

Many disadvantages attended the security against wounds for which this armour had been devised. The enormous weight exhausted the force and crippled the limbs. It rendered the heat of a southern climate insupportable. In some circumstances it increased the danger of death, as in the passage of a river or morass. It was impossible to compel an enemy to fight, because the least entrenchment or natural obstacle could stop such unwieldy assailants. The troops might be kept in constant alarm at night, and either com-

* Le Grand, Vie privée des Français, t. i. p. 349.

† Du Cange, v. Balista. Muratori, Diss. 26. t. i. p. 462. (Ital.)

pelled to sleep under arms, or run the risk of being surprized before they could rivet their plates of steel.* Neither the Italians, however, nor the Transalpines, would surrender a mode of defence, which they ought to have deemed inglorious. But in order to obviate some of its military inconveniences, as well as to give a concentration in attack, which lancers impetuously charging in a single line, according to the practice at least of France in the middle ages, did not preserve, it became usual for the cavalry to dismount, and leaving their horses at some distance, to combat on foot with the lance. This practice, which must have been singularly embarrassing with the plate-armour of the fifteenth century, was introduced before it became so ponderous. It is mentioned by historians of the twelfth century, both as a German and an English custom.† We find it in the wars of Edward III. Hawkwood, the disciple of that school, introduced it into Italy.‡ And it was practised by the English in their second wars with France, especially at the battles of Crevant and Verneuil.§

Custom of cavalry dismounting.

* Sismondi, t. ix. p. 158.

† The emperor Conrad's cavalry in the second crusade are said by William of Tyre to have dismounted on one occasion, and fought on foot, de equis descendentes, et facti pedites; *sicut mos est Teutonicis* in summis necessitatibus bellica tractare negotia. l. xvii. c. 4. And the same was done by the English in their engagement with the Scotch near North Allerton, commonly called the battle of the Standard, in 1138. Twysden, Decem Script. p. 342.

‡ Sismondi, t. vi. p. 429. Azarius, in Script. Rer. Ital. t. xvi. Matt. Villani.

§ Monstrelet, t. ii. fol. 7. 14. 76. Villaret, t. xvii. p. 89. It was a Burgundian as well as English fashion. Entre les Bourguignons, says Comines, lors estoient les plus honorez ceux que descendoient avec les archers. l. i. c. 3.

Invention of gunpowder.

Meanwhile a discovery accidentally made, perhaps in some remote age and distant region, and whose importance was but slowly perceived by Europe, had prepared the way not only for a change in her military system, but for political effects still more extensive. If we consider gunpowder as an instrument of human destruction, incalculably more powerful than any that skill had devised or accident presented before, acquiring, as experience shews us, a more sanguinary dominion in every succeeding age, and borrowing all the progressive resources of science and civilization for the extermination of mankind, we shall be appalled at the future prospects of the species, and feel perhaps in no other instance so much difficulty in reconciling the mysterious dispensation with the benevolent order of Providence. As the great security for established governments, the surest preservation against popular tumult, it assumes a more equivocal character, depending upon the solution of a doubtful problem, whether the sum of general happiness has lost more in the last three centuries through arbitrary power, than it has gained through regular police and suppression of disorder.

There seems little reason to doubt, that gunpowder was introduced through the means of the Saracens into Europe. Its use in engines of war, though they may seem to have been rather like our fire-works than artillery, is mentioned by an Arabic writer in the Escurial collection about the

year 1249.* It was known not long afterwards to our philosopher Roger Bacon, though he concealed in some degree the secret of its composition. In the first part of the fourteenth century, cannon or rather mortars were invented, and the applicability of gunpowder to purposes of war was understood. Edward III. employed some pieces of artillery with considerable effect at Crecy.† But its use was still not very frequent; a circumstance which will surprize us less, when we consider the unscientific construction of artillery; the slowness with which it could be loaded; its stone balls, of uncertain aim and imperfect force, being commonly fired at a

* Casiri, Bibl. Arab. Hispan. t. ii. p. 7. thus renders the original description of certain missiles used by the Moors. Serpunt, susurrantque scorpiones circumligati ac pulvere nitrato incensi, unde explosi fulgurant ac incendunt. Jam videre erat manganum excussum veluti nubem per aera extendi ac tonitrus instar horrendum edere fragorem, ignemque undequàque vomens, omnia dirumpere, incendere, in cineres redigere. The Arabic passage is at the bottom of the page; and one would be glad to know whether *pulvis nitratus* is a fair translation. But I think there can on the whole be no doubt that gunpowder is meant. Another Arabian writer seems to describe the use of cannon in the years 1312 and 1323. Id. ibid. And the chronicle of Alphonso XI. king of Castile, distinctly mentions them at the siege of Algeziras in 1342. But before this, they were sufficiently known in France. Gunpowder and cannon are both mentioned in registers of accounts under 1338. (Du Cange, Bombarda.) and in another document of 1345. Hist. du Languedoc, t. iv. p. 204. But the strongest evidence is a passage of Petrarch, written before 1344, and quoted in Muratori, Antich. Ital. Dissert. 26. p. 456. where he speaks of the art, nuper rara, nunc communis.

† G. Villani, l. xii. c. 67. Gibbon has thrown out a sort of objection to the certainty of this fact, on account of Froissart's silence. But the positive testimony of Villani, who died within two years afterwards, and had manifestly obtained much information as to the great events passing in France, cannot be rejected. He ascribes a material effect to the cannon of Edward, colpi delle bombarde, which I suspect, from his strong expressions, had not been employed before, except against stone walls. It seemed, he says, as if God thundered con grande uccisione di genti, e sfondamento di cavalli.

considerable elevation; and especially the difficulty of removing it from place to place during an action. In sieges, and in naval engagements, as for example in the war of Chioggia, it was more frequently employed.* Gradually, however, the new artifice of evil gained ground. The French made the principal improvements. They cast their cannon smaller, placed them on lighter carriages, and used balls of iron.† They invented portable arms for a single soldier, which, though clumsy in comparison with their present state, gave an augury of a prodigious revolution in the military art. John, duke of Burgundy, in 1411, had 4000 hand-cannons, as they were called, in his army.‡ They are found, under different names, and modifications of form, for which I refer the reader to professed writers on tactics, in most of the wars that historians of the fifteenth century record, but less in Italy, than beyond the Alps. The Milanese, in 1449, are said to have armed their militia with 20,000 muskets, which struck terror into the old generals.§ But these muskets, supported on a rest, and charged with

* Gattaro, Ist. Padovana, in Script. Rer. Ital. t. xvii. p. 360. Several proofs of the employment of artillery in French sieges during the reign of Charles V. occur in Villaret. See the word Artillerie in the index.

Gian Galeazzo had, according to Coria, thirty-four pieces of cannon, small and great, in the Milanese army about 1397.

† Guicciardini, l. i. p. 75. has a remarkable passage on the superiority of the French over the Italian artillery, in consequence of these improvements.

‡ Villaret, t. xiii. p. 176. 310.

§ Sismondi, t. ix. p. 341. He says that it required a quarter of an hour to charge and fire a musket. I must confess that I very much doubt the fact of so many muskets having been collected. In 1432, that arm was seen for the first time in Tuscany. Muratori. Dissert. 26. p. 457.

great delay, did less execution than our sanguinary science would require; and, uncombined with the admirable invention of the bayonet, could not in any degree resist a charge of cavalry. The pike had a greater tendency to subvert the military system of the middle ages, and to demonstrate the efficiency of disciplined infantry. Two free nations had already discomfited by the help of such infantry those arrogant knights on whom the fate of battles had depended; the Bohemians, instructed in the art of war by their great master, John Zisca; and the Swiss, who, after winning their independence inch by inch from the house of Austria, had lately established their renown by a splendid victory over Charles of Burgundy. Louis XI. took a body of mercenaries from the United Cantons into pay. Maximilian had recourse to the same assistance.* And though the importance of infantry was not perhaps decidedly established till the Milanese wars of Louis XII. and Francis I. in the sixteenth century, yet the last years of the middle ages, according to our division, indicated the commencement of that military revolution in the general employment of pikemen and musketeers.

Rivalry of Sforza and Braccio.

Soon after the beginning of the fifteenth century, to return from this digression, two illustrious captains, educated under Alberic di Barbiano, turned upon themselves the eyes of Italy. These

* See Guicciardini's character of the Swiss troops, p. 192. The French, he says, had no native infantry; il regno di Francia era debolissimo di fanteria propria, the nobility monopolising all warlike occupations. Ibid.

were Braccio di Montone, a noble Perugian, and Sforza Attendolo, originally a peasant in the village of Cotignuola. Nearly equal in reputation, unless perhaps Braccio may be reckoned the more consummate general, they were divided by a long rivalry, which descended to the next generation, and involved all the distinguished leaders of Italy. The distractions of Naples, and the anarchy of the ecclesiastical state, gave scope not only to their military, but political ambition. Sforza was invested with extensive fiefs in the kingdom of Naples, and with the office of Great Constable. Braccio aimed at independent acquisitions, and formed a sort of principality around Perugia. This, however, was entirely dissipated at his death. When Sforza and Braccio were no more, their respective parties were headed by the son of the former, Francesco Sforza, and by Nicolas Piccinino, who for more than twenty years fought, with few exceptions, under opposite banners. Piccinino was constantly in the service of Milan. Sforza, whose political talents fully equalled his military skill, never lost sight of the splendid prospects that opened to his ambition. From Eugenius IV. he obtained the March of Ancona, as a fief of the Roman see. Thus rendered more independent than the ordinary condottieri, he mingled as a sovereign prince in the politics of Italy. He was generally in alliance with Venice and Florence, throwing his weight into their scale to preserve the balance of power against Milan and Naples. But his ultimate designs rested upon

Francesco Sforza.

He acquires the duchy of Milan.

Milan. Filippo Maria, duke of that city, the last of his family, had only a natural daughter, whose hand he sometimes offered, and sometimes withheld from Sforza. Even after he had consented to their union, his suspicious temper was incapable of admitting such a son-in-law into confidence, and he joined in a confederacy with the pope and king of Naples, to strip Sforza of the March. At the death of Filippo Maria in 1447, that general had nothing left but his glory, and a very disputable claim to the Milanese succession. This, however, was set aside by the citizens, who revived their republican government. A republic in that part of Lombardy might, with the help of Venice and Florence, have withstood any domestic or foreign usurpation. But Venice was hostile, and Florence indifferent. Sforza became the general of this new state, aware that such would be the probable means of becoming its master. No politician of that age scrupled any breach of faith for his interests. Nothing, says Machiavel, was thought shameful, but to fail. Sforza with his army deserted to the Venetians; and the republic of Milan, being both incapable of defending itself, and distracted by civil dissensions, soon fell a prey to his ambition. In 1450, he was proclaimed duke, rather by right of election, or of conquest, than in virtue of his marriage with Bianca, whose sex, as well as illegitimacy, seemed to preclude her from inheriting.

Affairs of Naples.

I have not alluded for some time to the domestic history of a kingdom, which bore a con-

siderable part during the fourteenth and fifteenth centuries in the general combinations of Italian policy, not wishing to interrupt the reader's attention by too frequent transitions. We must return again to a more remote age in order to take up the history of Naples. Charles of Anjou, after the deaths of Manfred and Conradin had left him without a competitor, might be ranked in the first class of European sovereigns. Master of Provence and Naples, and at the head of the Guelf faction in Italy, he had already prepared a formidable attack on the Greek empire, when a memorable revolution in Sicily brought humiliation on his latter years. John of Procida, a Neapolitan, whose patrimony had been confiscated for his adherence to the party of Manfred, retained, during long years of exile, an implacable resentment against the house of Anjou. From the dominions of Peter III. king of Aragon, who had bestowed estates upon him in Valencia, he kept his eye continually fixed on Naples and Sicily. The former held out no favourable prospects; the Ghibelin party had been entirely subdued, and the principal barons were of French extraction or inclinations. But the island was in a very different state. Unused to any strong government, it was now treated as a conquered country. A large body of French soldiers garrisoned the fortified towns, and the systematic oppression was aggravated by those insults upon women, which have always been characteristic of that people, and are most intolerable to an Italian tempera-

1272

Rebellion of Sicily from Charles of Anjou.

CHAP. III. PART II. ITALY.

ment. John of Procida travelling in disguise through the island animated the barons with a hope of deliverance. In like disguise, he repaired to the pope, Nicolas III., who was jealous of the new Neapolitan dynasty, and obtained his sanction to the projected insurrection; to the court of Constantinople, from which he readily obtained money; and to the king of Aragon, who employed that money in fitting out an armament, that hovered upon the coast of Africa, under pretext of attacking the Moors. It is, however, difficult at this time to distinguish the effects of preconcerted conspiracy from those of casual resentment. Before the intrigues so skilfully conducted had taken effect, yet after they were ripe for development, an outrage committed upon a lady at Palermo during a procession on the vigil of Easter, provoked the people to that terrible massacre of all the French in their island, which has obtained the name of *Sicilian Vespers*. Unpremeditated as such an ebullition of popular fury must appear, it fell in, by the happiest coincidence, with the previous conspiracy. The king of Aragon's fleet was at hand; the Sicilians soon called in his assistance; he sailed to Palermo, and accepted the crown. John of Procida is a remarkable witness to a truth which the pride of governments will seldom permit them to acknowledge; that an individual, obscure and apparently insignificant, may sometimes, by perseverance and energy, shake the foundations of established states; while the perfect concealment of his

Sicilian Vespers.

1283

intrigues proves also, against a popular maxim, that a political secret may be preserved by a number of persons during a considerable length of time.*

War in consequence between France and Aragon.

The long war that ensued upon this revolution involved or interested the greater part of civilized Europe. Philip III. of France adhered to his uncle, and the king of Aragon was compelled to fight for Sicily within his native dominions. This indeed was the more vulnerable point of attack. Upon the sea he was lord of the ascendant. His Catalans, the most intrepid of Mediterranean sailors, were led to victory by a Calabrian refugee, Roger di Loria, the most illustrious and successful admiral whom Europe produced till the age of Blake and de Ruyter. In one of Loria's battles, the eldest son of the king of Naples was made prisoner, and the first years of his own reign were spent in confinement. But notwithstanding these advantages, it was found impracticable for Aragon to contend against the

* Giannone, though he has well described the schemes of John of Procida, yet, as is too often his custom, or rather that of Costanzo, whom he implicitly follows, drops or slides over leading facts; and thus, omitting entirely, or misrepresenting the circumstances of the Sicilian Vespers, treats the whole insurrection as the result of a deliberate conspiracy. On the other hand, Nicolas Specialis, a contemporary writer, in the seventh volume of Muratori's collection, represents the Sicilian Vespers as proceeding entirely from the casual outrage in the streets of Palermo. The thought of calling in Peter, he asserts, did not occur to the Sicilians till Charles had actually commenced the siege of Messina. But this is equally removed from the truth. Gibbon has made more errors than are usual with so accurate an historian in his account of this revolution, such as calling Constance, the queen of Peter, *sister* instead of *daughter* of Manfred. A good narrative of the Sicilian Vespers may be found in Velly's history of France, t. vi.

CHAP. III. PART II. ITALY.

arms of France, and latterly of Castile, sustained by the rolling thunders of the Vatican. Peter III. had bequeathed Sicily to his second son James; Alfonso, the eldest, king of Aragon, could not fairly be expected to ruin his inheritance for his brother's cause; nor were the barons of that free country disposed to carry on a war without national objects. He made peace accordingly in 1295, and engaged to withdraw all his subjects from the Sicilian service. Upon his own death, which followed very soon, James succeeded to the kingdom of Aragon, and ratified the renunciation of Sicily. But the natives of that island had received too deeply the spirit of independence to be thus assigned over by the letter of a treaty. After solemnly abjuring, by their ambassadors, their allegiance to the king of Aragon, they placed the crown upon the head of his brother Frederic. They maintained the war against Charles II. of Naples, against James of Aragon, their former king, who had bound himself to enforce their submission, and even against the great Roger di Loria, who, upon some discontent with Frederic, deserted their banner, and entered into the Neapolitan service. Peace was at length made in 1300, upon condition that Frederic should retain during his life the kingdom, which was afterwards to revert to the crown of Naples; a condition not likely to be fulfilled.

Upon the death of Charles II. king of Naples, in 1305, a question arose as to the succession. His eldest son, Charles Martel, had been called by

maternal inheritance to the throne of Hungary, and had left at his decease a son Carobert, the reigning sovereign of that country. According to the laws of representative succession, which were at this time tolerably settled in private inheritance, the crown of Naples ought to have regularly devolved upon that prince. But it was contested by his uncle Robert, the eldest living son of Charles II., and the cause was pleaded by civilians before Pope Clement V. at Avignon, the feudal superior of the Neapolitan kingdom. Reasons of public utility, rather than of legal analogy, seem to have prevailed in the decision which was made in favour of Robert.* The course of his reign evinced the wisdom of this determination. Robert, a wise and active, though not personally a martial prince, maintained the ascendancy of the Guelf faction, and the papal influence connected with it, against the formidable combination of Ghibelin usurpers in Lombardy, and the two emperors Henry VII. and Louis of Bavaria. No male issue survived Robert, whose crown descended to his grand-daughter Joanna. She had been espoused, while a child, to her cousin Andrew, son of Carobert king of Hungary, who was educated with her in the court of Naples. Auspiciously contrived as this union might seem to silence a subsisting claim upon the kingdom, it proved eventuaily the source of civil war and

Robert, king of Naples.

* Giannone, l. xxii. Summonte, t. ii. p. 370. Some of the civilians of that age, however, approved the decision.

CHAP. III. PART II. ITALY.

Joanna. Murder of her husband Andrew.

1343

calamity for an hundred and fifty years. Andrew's manners were barbarous, more worthy of his native country, than of that polished court, wherein he had been bred. He gave himself up to the society of Hungarians, who taught him to believe that a matrimonial crown and derivative royalty were derogatory to a prince who claimed by a paramount hereditary right. In fact, he was pressing the court of Avignon to permit his own coronation, which would have placed in a very hazardous condition the rights of the queen, with whom he was living on ill terms, when one night, he was seized, strangled, and thrown out of a window. Public rumour, in the absence of notorious proof, imputed the guilt of this mysterious assassination to Joanna. Whether historians are authorized to assume her participation in it so confidently as they have generally done, may perhaps be doubted; though I cannot venture positively to rescind their sentence. The circumstances of Andrew's death were undoubtedly pregnant with strong suspicion.* Louis, king of

* The Chronicle of Dominic di Gravina (Script. Rer. Ital. t. xii,) seems to be our best testimony for the circumstances connected with Andrew's death; and after reading his narrative more than once, I find myself undecided as to this perplexed and mysterious story. Gravina's opinion, it should be observed, is extremely hostile to the queen. Nevertheless, there are not wanting presumptions, that Charles first duke of Durazzo, who had married his sister, was concerned in the murder of Andrew, for which in fact he was afterwards put to death by the king of Hungary. But, if the duke of Durazzo was guilty, it is unlikely that Joanna should be so too; because she was on very bad terms with him, and indeed the chief proofs against her are founded on the investigation which Durazzo himself professed to institute. Confessions obtained through torture are as little credible in history as they ought to be in judi-

Hungary, his brother, a just and stern prince, invaded Naples, partly as an avenger, partly as a conqueror. The queen, and her second husband, Louis of Tarento, fled to Provence, where her acquittal, after a solemn, if not an impartial, investigation, was pronounced by Clement VI. Louis meanwhile found it more difficult to retain than to acquire the kingdom of Naples; his own dominions required his presence; and Joanna soon recovered her crown. She reigned for thirty years more without the attack of any enemy, but not intermeddling, like her progenitors, in the general concerns of Italy. Childless by four husbands, the succession of Joanna began to excite ambitious speculations. Of all the male descendants of Charles I. none remained but the king of Hungary, and Charles, duke of Durazzo, who had married the queen's niece, and was regarded by her as the presumptive heir to the crown. But, offended by her marriage with Otho of Brunswick, he procured the assistance of an Hungarian army to invade the kingdom, and getting the queen into his power, took possession of the throne. In this

cature; even if we could be positively sure, which is not the case in this instance, that such confessions were ever made. However, I do not pretend to acquit Joanna, but merely to notice the uncertainty that rests over her story, on account of the positiveness with which all historians, except those of Naples, and the Abbé de Sade, whose vindication (Vie de Pétrarque, t. ii. notes.) does her more harm than good, have assumed the murder of Andrew to have been her own act, as if she had ordered his execution in open day.

Those who believe in the innocence of Mary queen of Scots may, besides the obvious resemblance in their stories, which has been often noticed, find a more particular parallel between this duke of Durazzo and the earl of Murray.

CHAP. III. PART II. ITALY. 1378

enterprize he was seconded by Urban VI., against whom Joanna had unfortunately declared in the great schism of the church. She was smothered with a pillow in prison by the order of Charles. The name of Joan of Naples has suffered by the lax repetition of calumnies. Whatever share she may have had in her husband's death, and certainly under circumstances of extenuation, her subsequent life was not open to any flagrant reproach. The charge of dissolute manners, so frequently made, is not warranted by any specific proof, or contemporary testimony.

House of Anjou.

In the extremity of Joanna's distress, she had sought assistance from a quarter too remote to afford it in time for her relief. She adopted Louis duke of Anjou, eldest uncle of the young king of France, Charles VI., as her heir in the kingdom of Naples and county of Provence. This bequest took effect without difficulty in the latter country. Naples was entirely in the possession of Charles of Durazzo. Louis, however, entered Italy with a very large army, consisting at least of 30,000 cavalry, and, according to some writers, more than double that number.* He was joined by many Neapolitan barons, attached to the late queen. But by a fate not unusual in so imperfect a state of military science, this armament produced no adequate effect, and mouldered away through disease and want of provisions. Louis himself dying not long afterwards, the government of

* Muratori. Summonte. Costanzo.

Charles III. appeared secure, and he was tempted to accept an offer of the crown of Hungary. This enterprize, equally unjust and injudicious, terminated in his assassination. Ladislaus, his son, a child ten years old, succeeded to the throne of Naples under the guardianship of his mother Margaret; whose exactions of money producing discontent, the party which had supported the late duke of Anjou became powerful enough to call in his son. Louis II., as he was called, reigned at Naples, and possessed most part of the kingdom for several years; the young king Ladislaus, who retained some of the northern provinces, fixing his residence at Gaeta. If Louis had prosecuted the war with activity, it seems probable that he would have subdued his adversary. But his character was not very energetic; and Ladislaus, as he advanced to manhood, displaying much superior qualities, gained ground by degrees, till the Angevin barons, perceiving the turn of the tide, came over to his banner, and he recovered his whole dominions.

Ladislaus.

The kingdom of Naples, at the close of the fourteenth century, was still altogether a feudal government. This had been introduced by the first Norman kings, and the system had rather been strengthened than impaired under the Angevin line. The princes of the blood, who were at one time numerous, obtained extensive domains by way of apanage. The principality of Tarento was a large portion of the kingdom.* The rest was

* It comprehended the provinces now called Terra d'Otranto, and

occupied by some great families, whose strength, as well as pride, was shewn in the number of men at arms whom they could muster under their banner. At the coronation of Louis II. in 1390, the Sanseverini appeared with 1800 cavalry completely equipped.* This illustrious house, which had filled all the high offices of state, and changed kings at its pleasure, was crushed by Ladislaus, whose bold and unrelenting spirit well fitted him to bruise the heads of the aristocratic hydra. After thoroughly establishing his government at home, this ambitious monarch directed his powerful resources towards foreign conquests. The ecclesiastical territories had never been secure from rebellion or usurpation; but legitimate sovereigns had hitherto respected the patrimony of the head of the church. It was reserved for Ladislaus, a feudal vassal of the Holy See, to seize upon Rome itself as his spoil. For several years, while the disordered state of the church, in consequence of the schism and the means taken to extinguish it, gave him an opportunity, the king of Naples occupied great part of the papal territories. He was disposed to have carried his arms farther north, and attacked the republic of Florence, if not the states of Lombardy, when his death relieved Italy from the danger of this new tyranny.

Terra di Bari; besides part of those adjoining. Summonte, Istoria di Napoli, t. iii. p. 537. Orsini, prince of Tarento, who died in 1463, had 4000 troops in arms, and the value of 1,000,000 florins in moveables. Sismondi, t. x. p. 151.

* Summonte, t. iii. p. 517. Giannone, l. xxiv. c. 4.

Joanna II.

An elder sister, Joanna II., reigned at Naples after Ladislaus. Under this queen, destitute of courage and understanding, and the slave of appetites which her age rendered doubly disgraceful, the kingdom relapsed into that state of anarchy from which its late sovereign had rescued it. I shall only refer the reader to more enlarged histories, for the first years of Joanna's reign. In 1421 the two most powerful individuals were Sforza Attendolo, great constable, and Ser Gianni Caraccioli, the queen's minion, who governed the palace with unlimited sway. Sforza, aware that the favourite was contriving his ruin, and remembering the prison in which he had lain more than once since the accession of Joanna, determined to anticipate his enemies, by calling in a pretender to the crown, another Louis of Anjou, third in descent of that unsuccessful dynasty. The Angevin party, though proscribed and oppressed, was not extinct; and the populace of Naples, in particular, had always been on that side. Caraccioli's influence and the queen's dishonourable weakness rendered the nobility disaffected. Louis III. therefore had no remote prospect of success. But Caraccioli was more prudent than favourites, selected from such motives, have usually proved. Joanna was old and childless; the reversion to her dominions was a valuable object to any prince in Europe. None was so competent to assist her, or so likely to be influenced by the hope of succession, as Alfonso king of Aragon and Sicily. That island, after the reign of its deliverer Frederic I., had

Adoption of Alfonso of Aragon.

Affairs of Sicily.

unfortunately devolved upon weak or infant princes. One great family, the Chiaramonti, had possessed itself of half Sicily; not by a feudal title, as in other kingdoms, but as a kind of counter-sovereignty, in opposition to the crown, though affecting rather to bear arms against the advisers of their kings, than against themselves. The marriage of Maria, queen of Sicily, with Martin, son of the king of Aragon, put an end to the national independence of her country. Dying without issue, she left the crown to her husband. This was consonant perhaps to the received law of some European kingdoms. But, upon the death of Martin in 1409, his father, also named Martin, king of Aragon, took possession as heir to his son, without any election by the Sicilian parliament. The Chiaramonti had been destroyed by the younger Martin, and no party remained to make opposition. Thus was Sicily united to the crown of Aragon. Alfonso, who now enjoyed those two crowns, gladly embraced the proposals of the queen of Naples. They were founded indeed on the most substantial basis, mutual interest. She adopted Alfonso as her son and successor, while he bound himself to employ his forces in delivering a kingdom that was to become his own. Louis of Anjou, though acknowledged in several provinces, was chiefly to depend upon the army of Sforza; and an army of Italian mercenaries could only be kept by means which he was not able to apply. The king of Aragon therefore had far the better prospects in the war, when one of the many revolu-

tions of this reign defeated his immediate expectations. Whether it was that Alfonso's noble and affable nature afforded a contrast which Joanna was afraid of exhibiting to the people, or that he had really formed a plan to anticipate his succession to the throne, she became more and more distrustful of her adopted son; till, an open rupture having taken place, she entered into a treaty with her hereditary competitor, Louis of Anjou, and, revoking the adoption of Alfonso, substituted the French prince in his room. The king of Aragon was disappointed by this unforeseen stroke, which, uniting the Angevin faction with that of the reigning family, made it impracticable for him to maintain his ground for any length of time in the kingdom. Joanna reigned for more than ten years without experiencing any inquietude from the pacific spirit of Louis, who, content with his reversionary hopes, lived as a sort of exile in Calabria.* Upon his death, the queen, who did not

Its revocation in favour of Louis of Anjou.

* Joanna's great favourite, Caraccioli, fell a victim some time before his mistress's death to an intrigue of the palace; the duchess of Sessia, a new favourite, having prevailed on the feeble old queen to permit him to be assassinated. About this time Alfonso had every reason to hope for the renewal of the settlement in his favour. Caraccioli had himself opened a negociation with the king of Aragon; and after his death, the duchess of Sessia embarked in the same cause. Joan even revoked secretly the adoption of the duke of Anjou. This circumstance might appear doubtful; but the historian, to whom I refer, has published the act of revocation itself, which bears date April 11th, 1433. Zurita (Anales de Aragon, t. iv. p. 217.) admits that no other writer, either contemporary or subsequent, has mentioned any part of the transaction, which must have been kept very secret; but his authority is so respectable, that I thought it worth notice, however uninteresting these remote intrigues may appear to most readers. Joanna soon changed her mind again, and took no overt steps in favour of Alfonso.

CHAP. III. PART II. ITALY. 1433

long survive him, settled the kingdom on his brother Regnier. The Neapolitans were generally disposed to execute this bequest. But Regnier was unluckily at that time a prisoner to the duke of Burgundy; and though his wife maintained the cause with great spirit, it was difficult for her, or even for himself, to contend against the king of Aragon, who immediately laid claim to the kingdom. After a contest of several years, Regnier, having experienced the treacherous and selfish abandonment of his friends, yielded the game to his adversary; and Alfonso founded the Aragonese line of sovereigns at Naples, deriving pretensions more splendid than just from Manfred, from the house of Swabia, and from Roger Guiscard.*

Alfonso king of Naples.

In the first year of Alfonso's Neapolitan war, he was defeated and taken prisoner by a fleet of the Genoese, who, as constant enemies of the Catalans in all the naval warfare of the Mediterranean, had willingly lent their aid *to the* Angevin party. Genoa was at this time subject to Filippo Maria, duke of Milan; and her royal captive was transmitted to his court. But here the brilliant graces of Alfonso's character won over his

* According to a treaty between Frederic III., king of Sicily, and Joanna I. of Naples, in 1363, the former monarch was to assume the title of king of Trinacria, leaving the original style to the Neapolitan line. But, neither he, nor his successors in the island, ever complied with this condition, or entitled themselves otherwise than kings of Sicily ultrà Pharum, in contradistinction to the other kingdom, which they denominated, Sicily citrà Pharum. Alfonso of Aragon, when he united both these, was the first who took the title, King of the two Sicilies, which his successors have retained ever since. Giannone, t. iii. p. 234.

conqueror, who had no reason to consider the war as his own concern. The king persuaded him on the contrary, that a strict alliance with an Aragonese dynasty in Naples against the pretensions of any French claimant would be the true policy and best security of Milan. That city, which he had entered as a prisoner, he left as a friend and ally. From this time Filippo Maria Visconti and Alfonso were firmly united in their Italian politics, and formed one weight of the balance, which the republics of Venice and Florence kept in equipoise. After the succession of Sforza to the duchy of Milan, the same alliance was generally preserved. Sforza had still more powerful reasons than his predecessor for excluding the French from Italy, his own title being contested by the duke of Orleans, who derived a claim from his mother Valentine, a daughter of Gian Galeazzo Visconti. But the two republics were no longer disposed towards war. Florence had spent a great deal without any advantage in her contest with Filippo Maria;* and the new duke of Milan had been the constant personal friend of Cosmo de' Medici, who altogether influenced that republic. At Venice indeed he had been regarded with very different sentiments; the senate had prolonged their war against Milan with redoubled animosity after his elevation, deeming him a not less ambitious and more formidable neighbour than the Visconti. But

His connection with Milan.

* The war ending with the peace of Ferrara, in 1428, is said to have cost the republic of Florence 3,500,000 florins. Ammirato, p. 1043.

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they were deceived in the character of Sforza. Conscious that he had reached an eminence beyond his early hopes, he had no care but to secure for his family the possession of Milan, without disturbing the balance of Lombardy. No one better knew than Sforza the faithless temper and destructive politics of the condottieri, whose interest was placed in the oscillations of interminable war, and whose defection might shake the stability of any government. Without peace it was impossible to break that ruinous system, and accustom states to rely upon their natural resources. Venice had little reason to expect further conquests in Lombardy: and if her ambition had inspired the hope of them, she was summoned by a stronger call, that of self-preservation, to defend her numerous and dispersed possessions in the Levant, against the arms of Mahomet II. All Italy indeed felt the peril that impended from that side; and these various motives occasioned a quadruple league in 1455, between the king of Naples, the duke of Milan, and the two republics, for the preservation of peace in Italy. One object of this alliance, and the prevailing object with Alfonso, was the implied guarantee of his succession in the kingdom of Naples to his illegitimate son, Ferdinand. He had no lawful issue; and there seemed no reason why an acquisition of his own valour should pass against his will to collateral heirs. The pope, as feudal superior of the kingdom, and the Neapolitan parliament, the sole competent tribunal, confirmed the inheritance of

Quadruple league of 1545.

Ferdinand.* Whatever may be thought of the claims subsisting in the house of Anjou, there can be no question that the reigning family of Aragon were legitimately excluded from that throne, though force and treachery enabled them ultimately to obtain it.

Character of Alfonso.

Alfonso, sirnamed the Magnanimous, was by far the most accomplished sovereign whom the fifteenth century produced. The virtues of chivalry were combined in him with the patronage of letters, and with more than their patronage, a real enthusiasm for learning, seldom found in a king, and especially in one so active and ambitious.† This devotion to literature was, among the Italians of that age, almost as sure a passport to general admiration, as his more chivalrous perfection. Magnificence in architecture and the pageantry of a splendid court gave fresh lustre to his reign. The Neapolitans perceived with grateful pride, that he lived almost entirely among them, in preference to his patrimonial kingdom; and forgave the heavy taxes, which faults nearly allied to his virtues, profuseness and ambition, compelled him to impose.‡ But they remarked a very different character in his son. Ferdinand was as dark and vindictive, as his father was affable and generous. The barons, who had many

Ferdinand.

* Giannone, l. xxvi. c. 2.

† A story is told, true or false, that his delight in hearing Quintus Curtius read, without any other medicine, cured the king of an illness. See other proofs of his love of letters in Tiraboschi, t. vi. p. 40.

‡ Giannone, l. xxvi.

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opportunities of ascertaining his disposition, began immediately upon Alfonso's death, to cabal against his succession; turning their eyes first to the legitimate branch of the family, and, on finding that prospect not favourable, to John,
1461 titular duke of Calabria, son of Regnier of Anjou, who survived to protest against the revolution that had dethroned him. John was easily prevailed upon to undertake an invasion of Naples. Notwithstanding the treaty concluded in 1455, Florence assisted him with money, and Venice at least with her wishes; but Sforza remained unshaken in that alliance with Ferdinand, which his clear-sighted policy discerned to be the best safeguard for his own dynasty. A large proportion of the Neapolitan nobility, including Orsini, prince of Tarento, the most powerful vassal of the crown, raised the banner of Anjou, which was sustained also by the youngest Piccinino, the last of the great condottieri, under whose command the veterans of former warfare rejoiced to serve. But John underwent the fate that had always attended his family in their long competition for that throne. After some brilliant successes, his want of resources, aggravated by the defection of Genoa, on whose ancient enmity to the house of Aragon he had relied, was perceived by the barons of his party, who, according to the practice of their an-
1464 cestors, returned one by one to the allegiance of Ferdinand.

State of Italy in the latter part

The peace of Italy was little disturbed, except by a few domestic revolutions, for several years

after this Neapolitan war.* Even the most short-sighted politicians were sometimes withdrawn from selfish objects by the appalling progress of the Turks, though there was not energy enough in their councils to form any concerted plans for their own security. Venice maintained a long,

* The following distribution of a tax of 458,000 florins, imposed, or rather proposed, in 1464, to defray the expense of a general war against the Turks, will give a notion of the relative wealth and resources of the Italian powers; but it is probable that the pope rated himself above his fair contingent. He was to pay 100,000 florins; the Venetians 100,000; Ferdinand of Naples 80,000; the duke of Milan 70,000; Florence 50,000; the duke of Modena 20,000; Siena 15,000; the marquis of Mantua, 10,000; Lucca 8,000; the marquis of Montferrat 5000. Sismondi, t. x. p. 229. A similar assessment occurs, p. 307. where the proportions are not quite the same.

Perhaps it may be worth while to extract an estimate of the force of all Christian powers, written about 1454, from Sanuto's Lives of the Doges of Venice, p. 963. Some parts, however, appear very questionable. The king of France, it is said, can raise 30,000 men at arms; but for any foreign enterprize only 15,000. The king of England can do the same. These powers are exactly equal; otherwise one of the two would be destroyed. The king of Scotland, 'ch'è signore di grandi paesi e popoli con grande povertà,' can raise 10,000 men at arms: The king of Norway the same: The king of Spain (Castile) 30,000: The king of Portugal 6000: The duke of Savoy 8000: The duke of Milan 10,000. The republic of Venice can pay from her revenues 10,000: That of Florence 4000: The pope 6000. The emperor and empire can raise 60,000; The king of Hungary 80,000: (not men at arms, certainly).

The king of France in 1414, had 2,000,000 ducats of revenue; but now only half. The king of England had then as much; now only 700,000. The king of Spain's revenue also is reduced by the wars from 3,000,000 to 800,000. The duke of Burgundy had 3,000,000; now 900,000. The duke of Milan has sunk from 1,000,000 to 500,000; Venice from 1,100,000, which she possessed in 1423, to 800,000: Florence from 400,000 to 200,000.

These statistical calculations are chiefly remarkable, as they manifest that comprehensive spirit of treating all the powers of Europe as parts of a common system, which began to actuate the Italians of the fifteenth century. Of these enlarged views of policy the writings of Æneas Sylvius afford an eminent instance. Besides the more general and insensible causes, the increase of navigation and revival of literature, this may be ascribed to the continual danger from the progress of the Ottoman arms, which led the politicians of that part of Europe most exposed to them, into more extensive views as to the resources and dispositions of Christian states.

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but ultimately an unsuccessful contest with Mahomet II. for her maritime acquisitions in Greece and Albania; and it was not till after his death relieved Italy from its immediate terror that the ambitious republic endeavoured to extend its territories by encroaching on the house of Este.

1482 Nor had Milan shewn much disposition towards aggrandizement. Francesco Sforza had been succeeded, such is the condition of despotic governments, by his son Galeazzo, a tyrant more execrable than the worst of the Visconti. His extreme cruelties, and the insolence of a debauchery *that* gloried in the public dishonour of families, excited

1476 a few daring spirits to assassinate him. The Milanese profited by a tyrannicide, the perpetrators of which they had not courage or gratitude to protect. The regency of Bonne of Savoy, mother of the infant duke, Gian Galeazzo, deserved the

1480 praise of wisdom and moderation. But it was overthrown in a few years by Ludovico Sforza, sirnamed the Moor, her husband's brother; who while he proclaimed his nephew's majority, and affected to treat him as a sovereign, hardly disguised in his conduct towards foreign states, that he had usurped for himself the sole direction of government.

Affairs of Genoa in that age,

The annals of one of the few surviving republics, that of Genoa, present to us, during the fifteenth as well as the preceding century, an unceasing series of revolutions, the shortest enumeration of which would occupy several pages. Torn by the factions of Adorni and Fregosi, equal and eternal

rivals, to whom the old patrician families of Doria and Fieschi were content to become secondary, sometimes sinking from weariness of civil tumult into the grasp of Milan or France, and again, from impatience of foreign subjection, starting back from servitude to anarchy, the Genoa of those ages exhibits a singular contrast to the calm and regular aristocracy of the last three centuries. The latest revolution within the compass of this work was in 1488, when the duke of Milan became sovereign, an Adorno holding the office of doge as his lieutenant.

and of Florence.

Florence, the most illustrious and fortunate of Italian republics, was now rapidly descending from her rank among free commonwealths though surrounded with more than usual lustre in the eyes of Europe. We must take up the story of that city from the revolution of 1382, which restored the ancient Guelf aristocracy, or party of the Albizi, to the ascendancy of which a popular insurrection had stripped them. Fifty years elapsed during which this party retained the government in its own hands with few attempts at disturbance. Their principal adversaries had been exiled, according to the invariable and perhaps necessary custom of a republic; the populace and inferior artizans were dispirited by their ill success. Compared with the leaders of other factions, Maso degl' Albizi, and Nicola di Uzzano, who succeeded him in the management of his party, were attached to a constitutional liberty. Yet so difficult is it for any government, which does not rest on a

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broad basis of public consent, to avoid injustice, that they twice deemed it necessary to violate the ancient constitution. In 1393, after a partial movement in behalf of the vanquished faction, they assembled a parliament, and established what was technically called at Florence, a Balia.* This was a temporary delegation of sovereignty to a number, generally a considerable number, of citizens, who, during the period of their dictatorship, named the magistrates, instead of drawing them by lot, and banished suspected individuals. A precedent so dangerous was eventually fatal to themselves, and to the freedom of their country. Besides this temporary balia, the regular scrutinies periodically made in order to replenish the bags, out of which the names of all magistrates were drawn by lot, according to the constitution established in 1328, were so managed as to exclude all persons disaffected to the dominant faction. But, for still greater security, a council of two hundred was formed in 1411, out of those alone who had enjoyed some of the higher offices within the last thirty years, the period of the aristocratical ascendancy, through which every proposition was to pass, before it could be submitted to the two legislative councils.† These precautions indicate a government concious of public enmity; and if the Albizi had continued to sway the republic of Florence, their jealousy of the people would have suggested still more innovations, till the constitu-

* Ammirato, p. 840. † Id. p. 961.

Rise of the Medici.

tion had acquired, in legal form as well as substance, an absolutely aristocratical character.

But, while crushing with deliberate severity their avowed adversaries, the ruling party had left one family, whose prudence gave no reasonable excuse for persecuting them; and whose popularity, as well as wealth, rendered the experiment hazardous. The Medici were among the most considerable of the new, or plebeian nobility. From the first years of the fourteenth century, their name not very unfrequently occurs in the domestic and military annals of Florence.* Salvestro de' Medici, who had been partially implicated in the democratical revolution that lasted from 1378 to 1382, escaped proscription on the revival of the Guelf party, though some of his family were afterwards banished. Throughout the long depression of the popular faction, the house of Medici was always regarded as their consolation and their hope. That house was now represented by Giovanni,† whose immense wealth, honourably acquired by commercial dealings, which had already rendered the name celebrated in Europe, was expended with liberality and magnificence. Of a mild temper, and averse to

* The Medici are enumerated by Villani among the chiefs of the Black faction in 1304. l. viii. c. 71. One of that family was beheaded by order of the duke of Athens in 1343. l. xii. c. 2. It is singular that Mr. Roscoe should refer their first appearance in history, as he seems to do, to the siege of Scarperia in 1351.

† Giovanni was not nearly related to Salvestro de' Medici. Their families are said per lungo tratto allontanarsi. Ammirato, p. 992. Nevertheless, his being drawn gonfalonier in 1421, created a great sensation in the city, and prepared the way for the subsequent revolution. Ibid. Machiavelli, l. iv.

cabals, Giovanni de' Medici did not attempt to set up a party, and contented himself with repressing some fresh encroachments on the popular part of the constitution, which the Albizi were disposed to make.* They, in their turn, freely admitted him to that share in public councils, to which he was entitled by his eminence and virtues; a proof that the spirit of their administration was not illiberally exclusive. But on the death of Giovanni, his son Cosmo de' Medici, inheriting his father's riches and estimation, with more talents and more ambition, thought it time to avail himself of the popularity belonging to his name. By extensive connexions with the most eminent men in Italy, especially with Sforza, he came to be considered as the first citizen of Florence. The oligarchy were more than ever unpopular. Their administration since 1382 had indeed been in general eminently successful; the acquisition of Pisa, and of other Tuscan cities, had aggrandized the republic, while from the port of Leghorn, her ships had begun to trade with Alexandria, and sometimes to contend with the Genoese.† But an

* Machiavelli, Ist. Fiorent. l. iv.

† The Florentines sent their first merchant ship to Alexandria in 1422, with great and anxious hopes. Prayers were ordered for the success of the republic by sea; and an embassy dispatched with presents to conciliate the sultan of Babylon, that is, of Grand Cairo. Ammirato, p. 997. Florence had never before been so wealthy. The circulating money was reckoned (perhaps extravagantly) at 4,000,000 florins. The manufactures of silk and cloth of gold had never flourished so much. Architecture revived under Brunelleschi; literature under Leonard Aretin and Filelfo. p. 977. There is some truth in M. Sismondi's remark, that the Medici have derived part of their glory from their predecessors in

unprosperous war with Lucca diminished a reputation which was never sustained by public affection. Cosmo and his friends aggravated the errors of the government, which having lost its wise and temperate leader, Nicola di Uzzano, had fallen into the rasher hands of Rinaldo degl' Albizi. He incurred the blame of being the first aggressor in a struggle which had become inevitable. Cosmo 1433
was arrested by command of a gonfalonier devoted to the Albizi, and condemned to banishment. But the oligarchy had done too much or too little. The city was full of his friends; the honours conferred upon him in his exile attested the sentiments of Italy. Next year he was recalled in triumph to Florence, and the Albizi were completely overthrown.

It is vain to expect, that a victorious faction will scruple to retaliate upon its enemies a still greater measure of injustice than it experienced at their hands. The vanquished have no rights in the eyes of a conqueror. The sword of returning exiles, flushed by victory, and incensed by suffering, falls successively upon their enemies, upon those whom they suspect of being enemies, upon those who may hereafter become such. The Albizi had in general respected the legal forms of their free republic, which good citizens, and perhaps themselves, might hope one day to see more effective. The Medici made all their go-

government, whom they subverted, and whom they have rendered obscure. But the Milanese war, breaking out in 1423, tended a good deal to impoverish the city.

vernment conducive to hereditary monarchy. A multitude of noble citizens were driven from their country; some were even put to death. A balia was appointed for ten years to exclude all the Albizi from magistracy, and, for the sake of this security to the ruling faction, to supersede the legitimate institutions of the republic. After the expiration of this period, the dictatorial power was renewed on pretence of fresh danger, and this was repeated six times in twenty-one years.* In 1455, the constitutional mode of drawing magistrates was permitted to revive, against the wishes of some of the leading party. They had good reason to be jealous of a liberty, which was incompatible with their usurpation. The gonfaloniers, drawn at random from among respectable citizens, began to act with an independence to which the new oligarchy was little accustomed. Cosmo indeed, the acknowledged chief of the party, perceiving that some who had acted in insubordination to him, were looking forward to the opportunity of becoming themselves its leaders, was not unwilling to throw upon them the unpopularity attached to an usurpation by which he had maintained his influence. Without his apparent participation, though not against his will, the free constitution was again suspended by a balia appointed for the nomination of magistrates; and the regular drawing of names by lot was never, I believe, restored.† Cosmo died at an advanced age

* Machiavelli, l. v. Ammirato. † Ammirato, t. ii. p. 82—7.

in 1464. His son Piero de' Medici, though not deficient either in virtues or abilities, seemed too infirm in health for the administration of public affairs. At least, he could only be chosen by a sort of hereditary title, which the party above-mentioned, some from patriotic, more from selfish motives, were reluctant to admit. A strong opposition was raised to the family pretensions of the Medici. Like all Florentine factions, it trusted to violence; and the chance of arms was not in its favour. There is little to regret in the downfall of that oligarchy, which had all the disregard of popular rights, without the generous virtues of the Medici.* From this revolution in 1466, when some of the most considerable citizens were banished, we may date an acknowledged supremacy in the house of Medici, the chief of which nominated the regular magistrates, and drew to himself the whole conduct of the republic.

Lorenzo de' Medici. 1469

The two sons of Piero, Lorenzo and Julian, especially the former, though young at their father's death, assumed, by the request of their friends, the reins of government. It was impossible that, among a people who had so many recollections to attach to the name of liberty, among so many citizens whom their ancient constitution invited to public trust, the controul of a single family should excite no dissatisfaction; and per-

* Ammirato, p. 93. Roscoe's Lorenzo de' Medici, ch. 2. Machiavelli. Sismondi. The two latter are perpetual references in this part of history, where no other is made.

haps their want of any positive authority heightened the appearance of usurpation in their influence. But, if the people's wish to resign their freedom gives a title to accept the government of a country, the Medici were no usurpers. That family never lost the affections of the populace. The cry of Palle, Palle (their armorial distinction) would at any time rouse the Florentines to defend the chosen patrons of the republic. If their substantial influence could before be questioned, the conspiracy of the Pazzi, wherein Julian perished, excited an enthusiasm for the surviving brother, that never ceased during his life. Nor was this any thing unnatural, or any severe reproach to Florence. All around, in Lombardy and Romagna, the lamp of liberty had long since been extinguished in blood. The freedom of Siena and Genoa was dearly purchased by revolutionary proscriptions; that of Venice was only a name. The republic which had preserved longest, and with greatest purity, that vestal fire, had at least no relative degradation to fear in surrendering herself to Lorenzo de' Medici. I need not in this place expatiate upon what the name instantly suggests, the patronage of science and art, and the constellation of scholars and poets, of architects and painters, whose reflected beams cast their radiance around his head. His political reputation, though far less durable, was in his own age as conspicuous as that which he acquired in the history of letters. Equally active and sagacious, he held his way

through the varying combinations of Italian policy, always with credit, and generally with success. Florence, if not enriched, was upon the whole aggrandized during his administration, which was exposed to some severe storms from the unscrupulous adversaries, Sixtus IV. and Ferdinand of Naples, whom he was compelled to resist. As a patriot, indeed, we never can bestow upon Lorenzo de' Medici the meed of disinterested virtue. He completed that subversion of the Florentine republic, which his two immediate ancestors had so well prepared. The two councils, her regular legislature, he superseded by a permanent senate of seventy persons;* while the gonfalonier and priors, become a mockery and pageant, to keep up the illusion of liberty, were taught that in exercising a legitimate authority, without the sanction of their prince, a name now first heard at Florence, they incurred the risk of punishment for their audacity.† Even the total dilapidation of his com-

* Ammirato, p. 145. Machiavel says, l. viii. that this was done ristringere il governo, e che le deliberazioni importanti si riducessero in minore numero. Mr. Roscoe, vol. ii. p. 53. is puzzled how to explain this decided breach of the people's rights by his hero. But though it rather appears from Ammirato's expressions, that the two councils were now abolished, yet from M. Sismondi, t. xi. p. 186. who quotes an author I have not seen, and from Nardi, p. 7. I should infer that they still formally subsisted.

† Cambi, a gonfalonier of justice, had, in concert with the priors, admonished some public officers for a breach of duty. Fu giudicato questo atto molto superbo, says Ammirato, che senza partecipazione di Lorenzo de' Medici, principe del governo, fosse seguito, che in Pisa in quel tempo si ritrovava. p. 184. The gonfalonier was fined for executing his constitutional functions. This was a downright confession that the republic was at an end; and all it provokes M. Sismondi to say, is not too much. t. xi. p. 345.

mercial wealth was repaired at the cost of the state; and the republic disgracefully screened the bankruptcy of the Medici by her own.* But, compared with the statesmen of his age, we can reproach Lorenzo with no heinous crime. He had many enemies; his descendants had many more; but no unequivocal charge of treachery or assassination has been substantiated against his memory. By the side of Galeazzo or Ludovico Sforza, of Ferdinand or his son Alfonso of Naples, of the pope Sixtus IV., he shines with unspotted lustre.

1492 So much was Lorenzo esteemed by his contemporaries, that his premature death has frequently been considered as the cause of those unhappy revolutions that speedily ensued, and which his

* Since the Medici took on themselves the character of princes, they had forgotten how to be merchants. But, imprudently enough, they had not discontinued their commerce, which was of course mismanaged by agents, whom they did not overlook. The consequence was the complete dilapidation of their vast fortune. The public revenues had been for some years applied to make up its deficiencies. But, from the measures adopted by the republic, if we may still use that name, she should appear to have considered herself, rather than Lorenzo, as the debtor. The interest of the public debt was diminished one half. Many charitable foundations were suppressed. The circulating specie was taken at one-fifth below its nominal value in payment of taxes, while the government continued to issue it at its former rate. Thus was Lorenzo reimbursed a part of his loss, at the expense of all his fellow citizens. Sismondi, t. xi. p. 347. It is slightly alluded to by Machiavel.

The vast expenditure of the Medici for the sake of political *influence* would of itself have absorbed all their profits. Cosmo is said by Guicciardini to have spent 400,000 ducats in building churches, monasteries, and other public works. l. i. p. 91. The expenses of the family between 1434 and 1471 in buildings, charities, and taxes alone amounted to 663,755 florins; equal in value, according to Sismondi, to 32,000,000 francs at present. Hist. des Républ. t. x. p. 173. They seem to have advanced monies imprudently, through their agents, to Edward IV., who was not the best of debtors. Comines, Mém. de Charles VIII., l. vii. c. 6.

foresight would, it was imagined, have been able to prevent; an opinion, which, whether founded in probability or otherwise, attests the common sentiment about his character.

Pretensions of France upon Naples.

If indeed Lorenzo de' Medici could not have changed the destinies of Italy, however premature his death may appear, if we consider the ordinary duration of human existence, it must be admitted, that for his own welfare, perhaps for his glory, he had lived out the full measure of his time. An age of new and uncommon revolutions was about to arise, among the earliest of which the temporary downfall of his family was to be reckoned. The long contested succession of Naples was again to involve Italy in war. The ambition of strangers was once more to desolate her plains. Ferdinand, king of Naples, had reigned for thirty years after the discomfiture of his competitor, with success, and ability; but with a degree of ill faith as well as tyranny towards his subjects that rendered his government deservedly odious. His son Alfonso, whose succession seemed now near at hand, was still more marked by these vices than himself.* Meanwhile, the pretensions of the house of Anjou had legally descended, after the death of old Regnier, to Regnier duke of Lorraine, his grandson by a daughter; whose marriage into the house of Lorraine had, however, so displeased her father,

* Comines, who speaks sufficiently ill of the father, sums up the son's character very concisely: Nul homme n'a este plus cruel qui lui, ne plus mauvais, ne plus vicieux et plus infect, ne plus gourmand que lui. l. vii. c. 13.

CHAP. III. PART II. ITALY.

that he bequeathed his Neapolitan title, along with his real patrimony, the county of Provence, to a count of Maine; by whose testament they became vested in the crown of France. Louis XI., while he took possession of Provence, gave himself no trouble about Naples. But Charles VIII., inheriting his father's ambition without that cool sagacity which restrained it in general from impracticable attempts, and far better circumstanced at home than Louis had ever been, was ripe for an expedition to vindicate his pretension upon Naples, or even for more extensive projects. It was now two centuries since the kings of France had aimed, by intervals, at conquests in Italy. Philip the Fair and his successors were anxious to keep up a connexion with the Guelf party, and to be considered its natural heads, as the German emperors were of the Ghibelins. The long English wars changed all views of the court of France to self-defence. But in the fifteenth century, its plans of aggrandisement beyond the Alps began to revive. Several times, as I have mentioned, the republic of Genoa put itself under the dominion of France. The dukes of Savoy, possessing most part of Piedmont, and masters of the mountain-passes, were by birth, intermarriage, and habitual policy, completely dedicated to the French interests.* In the former

* Denina, Storia dell' Italia Occidentale, t. ii. passim. Louis XI. treated Savoy as a fief of France; interfering in all its affairs, and even taking on himself the regency after the death of Philibert I., under pretence of preventing disorders. p. 185. The marquis of Sa-

wars of Ferdinand against the house of Anjou, Pope Pius II., a very enlightened statesman, foresaw the danger of Italy from the prevailing influence of France, and deprecated the introduction of her armies.* But at that time the central parts of Lombardy were held by a man equally renowned as a soldier and a politician, Francesco Sforza. Conscious that a claim upon his own dominions subsisted in the house of Orleans, he maintained a strict alliance with the Aragonese dynasty at Naples, as having a common interest against France. But after his death the connexion between Milan and Naples came to be weakened. In the new system of alliances, Milan and Florence, sometimes including Venice, were combined against Ferdinand and Sixtus IV., an unprincipled and restless pontiff. Ludovico Sforza, who had usurped the guardianship of his nephew, the duke of Milan, found, as that young man advanced to maturity, that one crime required to be completed by ano-

luzzo, who possessed considerable territories in the south of Piedmont, had done homage to France ever since 1353 (p. 40.) though to the injury of his real superior, the duke of Savoy. This gave France another pretext for interference in Italy, p. 187.

* Cosmo de' Medici, in a conference with Pius II. at Florence, having expressed his surprize that the pope should support Ferdinand; Pontifex haud ferendum fuisse ait, regem a se constitutum, armis ejici, neque id Italiæ libertati conducere; Gallos, si regnum obtinuissent, Senas haud dubiè subacturos; Florentinos adversus lilia nihil acturos; Borsium Mutinæ ducem Gallis galliorem videri; Flaminiæ regulos ad Francos inclinare; Genuam Francis subesse, et civitatem Astensem; si pontifex Romanus aliquando Francorum amicus assumatur, nihil reliqui in Italiâ remanere quod non transeat in Gallorum nomen; tueri se Italiam, dum Ferdinandum tueretur. Commentar. Pii Secundi, l. iv. p. 96. Spondanus, who led me to this passage, is very angry; but the year 1494 proved Pius II. to be a wary statesman.

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ther. To depose and murder his ward was however a scheme, that prudence, though not conscience, bade him hesitate to execute. He had rendered Ferdinand of Naples, and Piero de' Medici, Lorenzo's heir, his decided enemies. A revolution at Milan would be the probable result of his continuing in usurpation. In these circumstances,
1439 Ludovico Sforza excited the king of France to undertake the conquest of Naples.*

So long as the three great nations of Europe were unable to put forth their natural strength through internal separation or foreign war, the Italians had so little to dread for their independence, that their policy was altogether directed to regulating the domestic balance of power among themselves. In the latter part of the fifteenth century, a more enlarged view of Europe would have manifested the necessity of reconciling petty animosities, and sacrificing petty ambition, in order to preserve the nationality of their governments; not by attempting to *melt down* Lombards and Neapolitans, principalities and republics, into a single monarchy, but by the more just and rational scheme of a common federation. The politicians of Italy were abundantly competent, as far as cool and clear understandings could render them, to perceive the interests of their country. But it is the will of Providence, that the highest and surest wisdom, even in matters of policy, should never be unconnected with virtue. In re-

* Guicciardini, l. i.

lieving himself from an immediate danger, Ludovico Sforza overlooked the consideration that the presumptive heir of the king of France claimed by an ancient title that principality of Milan, which he was compassing by usurpation and murder. But neither Milan nor Naples was free from other claimants than France, nor was she reserved to enjoy unmolested the spoil of Italy. A louder and a louder strain of warlike dissonance will be heard from the banks of the Danube, and from the Mediterranean gulf. The dark and wily Ferdinand, the rash and lively Maximilian, are preparing to hasten into the lists; the schemes of ambition are assuming a more comprehensive aspect; and the controversy of Neapolitan succession is to expand into the long rivalry between the houses of France and Austria. But here, while Italy is still untouched, and before as yet the first lances of France gleam along the defiles of the Alps, we close the history of the Middle Ages.

END OF THE FIRST VOLUME.

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